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GENERAL HEADINGS.

Cases Reported this Week.

Current Topics.

The New Lord Chancellor.

THE RECENT "political crisis" has led to the retirement of the Lord Chancellor and the Law Officers. Whether there was any occasion for this it is not for us to say, though on the face of things it seems to be somewhat lacking in reason. As the result Lord CAVE has been appointed Lord Chancellor, and the office is once more appropriately held by an Equity lawyer. Lord HALSBURY interrupted for many years the true order of succession, and there have, of course, been many other common law Chancellors. But in the natural order of things it belongs to Equity, and we welcome the appointment of Lord CAVE on this ground and for his undoubted personal qualifications as a lawyer, an administrator and a legislator. For, of course, the Lord Chancellor has a great influence on legislation, in particular on matters connected with the reform and administration of the law. It will be remembered that Lord CAVE was the chief critic of the Law of Property Bill, and to his criticism it was due that the Bill was postponed for a year. As to the result we have said enough on former occasions and we need add nothing now. It would be premature to hazard a guess whether, under existing conditions, Lord CAVE's Chancellorship is likely to be a long one or not, but there is plenty of work for him to take in hand. There is the recasting and consolidation of the Law of Property Act and its kindred Acts, the consolidation of the Judicature Acts, which Lord BIRKENHEAD was engaged on, and the giving effect to the Reports of the Committees on Crown Procedure and Solicitors' Remuneration, neither of which Reports, however, has yet been published.

The Retiring Lord Chancellor.

LORD BIRKENHEAD, during the four years of his tenancy of the Woolsack, succeeded in winning for himself a reputation as a lawyer for which his previous career had scarcely prepared the average practitioner or the average layman. He delivered more than one great judgment, and he presided always with grave

dignity over the great tribunal whose leading member he was. He showed an unexpected zeal for legal reform, and the Law of Property Act, 1922, though of course it was in substance the work of others, will always be associated with his name. The youngest Lord Chancellor of modern times—in fact, the very youngest of all except the ill-fated CHARLES YORKE and JEFFREYS with his strange personality—he united in himself at once the ceremoniousness which one associates with middle life and the touch of romance which one associates with youth. Chancellors fall into three kinds: the professional Chancellors, who are chiefly interested in the success of their legal career; the political Chancellors, who prefer rather to be regarded as leaders of the Senate than as judges or lawyers; and the romantic, for whom the rich coloured world of adventure and great enterprise holds the highest appeal. Most of our Chancellors belong to the first class, but not a few—such as CAIRNS, HALSBURY, LOREBURN—to the second as well. But the romantics may be counted on the fingers of one hand. Lord LYNDHURST was perhaps the last preceding romantic to Lord BIRKENHEAD, for the eccentric BROUGHAM belongs rather to the company of political lawyers. SOMERS and CLARENDON, a great Whig and a great Tory, are also to be grouped among the romantics, and perhaps Sir THOMAS MORE. Lord BIRKENHEAD, we feel sure, will carry with him into his retirement the respect of a profession whose members, whatever their political creed, will feel that he has behaved with loyalty and dignity to his chief in a situation of great difficulty.

Lord Birkenhead's Reforms.

IT IS INTERESTING to go back to Lord BIRKENHEAD'S *Times'* articles of December, 1920, on his projected Reforms and see how far he has succeeded. Land Transfer—done as far as was practicable. Imperial Court of Appeal—the time was said not to be ripe for final settlement of this question, but minor changes were contemplated; in particular in regard to Indian Appeals; we are not sure what has been done here. Provincial Divorce trials—done as far as Lord BIRKENHEAD contemplated. Transfer of Bankruptcy and Revenue work to the Chancery Division; this was said to be under consideration—done as to Bankruptcy. Reform of the Circuit System—Mr. Justice RIGBY SWIFT'S Circuit Arrangements Committee was appointed, but has, we believe, not yet reported, though the Judges on circuit and the Grand Juries are getting nervous. New Poor Persons Rules—done. Judges' salaries; addition to be considered—as far as we know, not done. Enforcement of Foreign Judgments—done. Proceedings against the Crown—Bill for placing the Crown on the same footing as an ordinary litigant in preparation. Consolidation of the Judicature Acts—Bill in preparation. Changes in the County Courts: this was under the consideration of a Committee of which Mr. Justice RIGBY SWIFT was Chairman, and which had just reported in December, 1920. The arrangement of courts and circuits has been from time to time dealt with, but we are not aware that action has been taken on the Report as a whole. We do not profess, however, to write with strict accuracy. These are the results which occur to us on looking through the Articles. Considering how suddenly Lord BIRKENHEAD'S work has been cut short, they form, we think, a record of which he may justly be proud. The Articles, we may suggest, would well bear reprinting so as to be readily accessible in permanent form.

Ex-Lord Chancellors.

THE PUBLIC will watch with interest and perhaps a little alarm the growing list of Ex-Chancellors. In *Hansard* of 30th June, 1921, there was given in reply to a question by Mr. LAMBERT a table showing how many ex-Lord Chancellors in Great Britain were then receiving pensions, with the amounts and the length of service in office of each recipient. Lord FINLAY is not included, for, as is well known, he accepted office on the understanding that he was to be pensionless. The others, with their approximate terms of service, are Lord HALSBURY (17 years 6 months), Lord LOREBURN (6 years 6 months), Lord HALDANE (3 years), and Lord BUCKMASTER (1 year 6 months). In each case the pension is £5,000 per annum, except that Lord LOREBURN'S pension (he went out of office in June, 1912) was at his own request reduced as from December, 1918, to £2,500. With the addition now of Lord BIRKENHEAD, the total charge on the revenue under this head will be considerable. We need not here discuss the reasonableness of it, but it is one of the disadvantages attendant on the present form of the "Ministry of Justice." On that subject Lord HALDANE is delivering two lectures, but we postpone any comment until after the second has been delivered. If we remember right, Lord BIRKENHEAD said in the House of Lords last summer that a Ministry of Justice would only come over his (politically) dead body; but perhaps it will have a chance during his period of (politically) suspended animation. Lord CAVE, with his maturer age, may be willing to look more favourably upon a scheme which would relieve the Lord Chancellor of what in recent times most of them have regarded as an impossible burden. We should add that the judicial work of Ex-Chancellors must not be forgotten.

The New Attorney-General.

THE ATTORNEY-GENERAL is so great a figure in the life of the English Bar, of which he is the recognized head, that we must find space to welcome Mr. DOUGLAS HOGG, K.C., in his new capacity. It is not very often that the office of Attorney-General is offered to a lawyer who has never sat in Parliament, but Mr. HOGG is so clearly the leading common law advocate of the day—always excepting Sir JOHN SIMON—that it was almost inevitable he should obtain this promotion from his party sooner or later. A very steady, reliable, and successful advocate, with juries and with judges alike, but perhaps especially with the latter, Mr. HOGG has fought his way up to his present eminence in five-and-twenty years of strenuous forensic warfare. He is young for an Attorney-General, being only one-and-fifty; but like Lord HEWART, he came to the Bar from another career. His earlier years were spent in commercial pursuits. He has connections also with education and philanthropy, for the first English Polytechnic was founded in Regent Street by his uncle Mr. QUINTIN HOGG, afterwards Lord MAGHERAMORNE. Mr. HOGG'S appointment will be generally approved. At the same time generous-minded lawyers will not fail to pay a tribute of respect and sympathy to Sir ERNEST POLLOCK and Sir LESLIE SCOTT, the retiring law officers, who have sacrificed, according to all present appearance, the chances of high judicial preferment in the immediate future to their sense of loyalty with a leader in adversity. Such fine disinterestedness, when excuses to act otherwise could have been found without dishonour, is a noble example of that fine sense of public spirit and personal integrity which nearly always marks the foremost members of the legal profession.

Wit and Learning on the Bench.

WE SEE THAT Mr. Justice EVE has been suggesting that it is time he retired. But he has been only fifteen years on the bench, while Mr. Justice DARLING on Friday of this week completed his twenty-fifth year, and it certainly cannot yet be said that he has "outstayed his welcome while, and tells the jest without the smile." We hope Mr. Justice EVE will let the matter stand over for "further consideration"; more than that we need not say. We were interested to see in last Sunday's *Observer* an article in which, according to the "head note," a friend outlined Sir CHARLES DARLING'S career and paid a tribute to his sagacity and wit. "After 25 years," it is said, he "is recognised by the profession as a strong judge, who can preside successfully over a difficult case, whether criminal or civil, while to the public he is known as the jester *par excellence* of the bench. As a French critic said of a bygone judge, '*Il s'amuse à juger*." It is the natural development no doubt of *Scintillæ Juris*, and of a career on the bench justified in its result perhaps more than in its origin. And since the great essayist said "Judges

ought to be more learned than witty," the senior King's Bench Judge must have, and no doubt has, a vast store of learning. Speaking of judges—and we hope respectfully—we may quote Dean INGE's amusing criticism in his article "The Nineteenth Century" in the current *Edinburgh Review*. "It would be difficult to name any large fortune which has really been earned. The bloated income of the successful barrister is simply a measure of the incompetence of our tribunals. In a case heard before a first-rate judge, without a jury, it often makes but little difference what counsel represents the litigants." Possibly the point of this is in its truth.

The Extension of the Rent Restrictions Act.

WE PRINT elsewhere the Interim Report of the Rent Restriction Committee, and with this should be read the letter from Sir KINGSLEY WOOD which appeared in *The Times* last Monday. While the Report does not go into details, it recommends that the Act shall not be allowed to lapse next June, but shall be continued with modifications. These should include further provisions as to sub-tenancies and the eviction of undesirable tenants, and facilities for an owner to recover possession when *bonâ fide* required for his own occupation. Nothing is said as to mortgage interest, and there appears to be difference of opinion as to preserving the present rental limit for protection. Sir KINGSLEY WOOD urges strongly that the limit should not be lowered. "Any reduction," he says, "of the rental limits of the houses protected would in reality be a drastic curtailment of the Act at the expense of the middle class. If the houses now occupied by the middle class are made free, it will be at the expense of a class who can least afford it to-day and that might well be 'squeezed' the most and their rents considerably raised and other onerous conditions imposed upon them." Comment would be premature until details of the recommendations of the Committee are known, and apparently these will only be given in the final report. Sir KINGSLEY'S letter empahsizes again that the Act does not apply to new houses.

Breach of Promise.

MR. JUSTICE MCCARDIE has expressed in *Lauer* v. *Higgins* (*Times*, 20th inst.) sentiments concerning the undesirability of breach of promise actions which have long been entertained by most thoughtful persons. The objection to such actions, as his lordship pointed out, are threefold. In the first place the fear of being subjected to such an action induces many a man to fulfil his engagement after he has convinced himself that he has made a terrible mistake and that the marriage must prove a failure. No doubt, of course, apart from the fear of such actions, many men honourably carry out their promise of marriage, even when convinced it must lead to wretchedness, rather than break their word or leave a woman in the lurch. The result is an unhappy marriage, too often ending in the divorce court or a magisterial separation; a marriage bringing misery not only to the man, but to the woman also. The law cannot prevent, and ought not to prevent, the voluntary fulfilment of such an engagement by an honourable man; but it can refuse to compel its unwilling performance. Again, the theory of breach of promise actions is really based on a false analogy. It treats a betrothal as if it were a commercial contract. But really, an engagement is a means of enabling two young people to know each other with greater intimacy than is normally possible to unengaged persons, so that they may discover whether or not they are suited to each other before the irrevocable knot is tied. Non-performance of such an engagement is not really breach of a contractual promise, but rather the dissolution of a partnership in an innocent comradeship. To penalise it by the exaction of damages is to defeat its real purpose. In fact, the action for breach, a substitute for the old medieval jurisdiction of the Ecclesiastical Courts to enforce specific performance of marriage between two betrothed persons, is really a survival from days when betrothal was deemed, like marriage itself, to be a sacrament, bearing to marriage the same relation which baptism bore to confirmation. Lastly, as the learned judge pointed out, breach actions never do the woman any real good and are not intended by her or her parents to do her any good; they are brought simply as a means of harassing the man, punishing him, and perhaps crippling him financially, so that he cannot marry a successful rival. It is quite possible to understand and partially sympathise with the natural vindictiveness of a woman in such cases; but it is not desirable that the Law Courts should be called upon to minister to it by making themselves its instrument.

Rent Restriction: Tenant or Trespasser.

THE RECENT decision of Judge BARNARD LAILEY in the Aldershot County Court in *Brake* v. *Ward* (13th October, unreported) deals with a point of considerable interest. The plaintiff was landlord of a shop and dwelling-house which together were admittedly a dwelling-house within the meaning of the Rent Restriction Act, 1920; we need hardly say that the statute includes premises which are used partly as a dwelling and partly for business purposes. The landlord, who in November, 1919, was owner in fee of the premises, agreed to sell them to a prospective purchaser for £550, the whole (except an immediate payment of £10) to be paid by instalments of £1 a week; in case of default the vendor was to be at liberty to annul the sale and re-enter on the premises. The purchaser went into possession and verbally sub-let the dwelling-part of the house to the defendant. Default in payment of the purchase price was made and the vendor gave notice of re-entry, annulling the sale. The sub-tenant remained on, and the question arose whether he could be dispossessed by an action for ejectment. This turns on whether or not the premises are lawfully "sub-let" to him within the meaning of the Act. The view which the judge took was that the sub-letting to the defendant was contingent on the subsistence of the purchaser's interest in the premises, which ceased on his default and the vendor's re-entry, *Doe* v. *Carter* (9 Q.B. 863), and that therefore the sub-letting had ceased to be lawful, so that the sub-tenant was a mere trespasser. We doubt the correctness of this very much indeed.

The Conscientious Juryman.

ALTHOUGH TRIAL by jury has existed in England since the times of EDWARD THE CONFESSOR, it would seem that compulsory service on juries has never produced any conscientious objector until our own day. Of late, however, there have been a number of cases, reported in the Press, in which jurymen and jurywomen have asked to be excused service on the ground of a conscientious objection. In a recent case at the Old Bailey, the Recorder excused a woman who pleaded that she believed, with TOLSTOI, in the law of "Love and Mercy," and could not reconcile it with her views to find a prisoner guilty of any offence involving a sentence inconsistent with that rule. Some time ago Mr. Justice DARLING released from a murder panel a lady who objected on principle to capital punishment—an obviously proper exercise of the judicial discretion. On Tuesday, at London Sessions, Mr. WALLACE, the Chairman, had a case in which a jury disagreed: the foreman explained that one of the jurymen could not find any verdict either way because his religion, he said, forbade him to "judge" others. The jury was discharged and a new one empanelled, but Mr. WALLACE told the non-conforming juryman that he should remember he had sworn to find a true verdict. No doubt the reply of the juryman, had he made one, would have been that he did so under compulsion, not of his own free will. Indeed, it is somewhat remarkable that compulsory service on juries has not disclosed more cases of conscientious objectors.

At the Mansion House, on the 23rd inst., the Lord Mayor fined Benjamin Henry Bowyer, 25, machine minder, £5 for neglecting to hand over an empty attaché case which he had found in a tramcar. The Chief Clerk mentioned that a passenger in a public vehicle who found an article, and failed to hand it to the conductor or driver, was liable to a fine of £10.

Lord Shaw's Reminiscences.

To read Lord SHAW's recent book of autobiographical letters* is to understand the genesis of the addresses which he delivered last August to the American and Canadian Bar Associations—to the former on "The Widening Range of Law," to the latter on "Law as a Link of Empire." We quoted a fortnight ago his phrase, "Jurisprudence is the ordered march of justice." Elsewhere it is "Jurisprudence as the marshalled search for justice"; and again, "Jurisprudence, serene, splendid, the august image of ordered rule among men and nations." The idea in each is the same, and it is an idea Lord SHAW has coined out of the ideals of the law which he has had before him throughout the course of his career.

Comment on the form of the letters, their varying openings and endings of endearment, is not for these columns, but it is not the least attractive part of the book. Commencing on 8th August, 1919, they touch on current events—in the first is an extract from a letter from General SMUTS just as he was leaving after the Peace Conference: "the aftermath is coming, and I fear we shall see grave troubles all over the world"—and at the same time show the writer's progress from his childhood at Dunfermline to his present position. The early struggles—the result of the loss of his father "just as he was making his standing sure"; his mother's resolve that he should at least have education: "It's but little of this world's gear that you'll get from me, but I would like to give you the best education that that head of yours will hold"; the Dux place at the High School when he was only thirteen; and then, this being all that Dunfermline had to give, his mother, declining the offer of a friend in Banbury to adopt him and send him, after some more schooling, to Oxford, broached the idea of the law. "I think, Tom, that you should turn your attention to the law." "What's the law?" said I. "Oh," she says, with a twinkle in her eye, "Somebody asks your opinion and you tell him; and then you send in your account and say: 'The charge for this is five shillings.'" So, for the time, there was an end of education, and the young SHAW went forthwith into the office of a "high-minded, but high-tempered solicitor." And he was not let off easily in the matter of work:—

> "From 9.30 to 8, and on Saturdays till 1; short intervals for meals; roughly speaking, a fifty-five hours week. But overtime! There was the rub. Just before the curfew sounded I was often summoned up and the evening's extra work began. This lasted variously till 9 or 10, or, in extreme cases, till 2 or 3 in the morning. And no pay. Reward—that I was learning my business.
>
> "Was this slavery? Not at all—not at all. The reason for which is that during the years when the work was most severe, I was under a master whom I respected and revered; and as his amanuensis I saw the workings of an alert, a high-principled, and a well-cultured mind. It is the old story: 'The labour we delight in physics pain.'"

But this was not to go on. After a year or two the walls of a solicitor's office were seen to be too narrow for the kind of life SHAW wished to live. "The rebel in me broke loose and I thought of the Bar." But it was a case of canny Scottish caution and safety first. "The solicitor's life was narrow, but it was a living; the barrister's life might be no living at all, and I might have to drop back into being a solicitor after all." So his "indenture" had to be completed before the new start was made. And then there was the necessity of a University course, and, somewhat late, Greek had to be tackled, for Dunfermline, whether it had much or little Latin, appears to have had no Greek, and so we get to interesting reminiscences of BLACKIE—"the alert, the handsome professor, with the noble head of snowy hair"—who seems to have lectured "on everything in general, with a preference for Scotch, and a little Greek by the way." But the real value of this compulsory Greek was doubtful. "The stage of *real facility in the use of the language was never reached.*" How could it be in eighteen months? And the life of the student then was severe and lonely. "I rejoice that the life of the poor student is now infinitely happier, infinitely more human. I love the poor student. He is of earth's best." And that note is taken up at a later stage when ANDREW CARNEGIE'S offer of endowment came along. One thing is prominent in those university days, as well as in the earlier period and in all Lord SHAW'S subsequent career: his devotion to literature. It began with the books with which his home was filled, and not least the Pilgrim's Progress. It was this that provided a memorial for his son in these last days:—

> "What wonder was it that when your and my dear Dick gave up his life at Thiepval, and the Church authorities wanted a scroll for his memorial tablet, there should at once spring into my mind the elegy of Bunyan on the away-going of Mr. Valiant for the Truth, 'And as he passed over, and all the trumpets sounded for him on the other side.'"

And later he learned from Professor MASSON the golden rule: "When anything strikes you in a great poet, mark the passage down and learn it if you can by heart. If you do that it will go with you to the end of the world. It will become part of yourself. That is culture." His true delights, he says, were in literature. And he got a fellowship of £300, founded in memory of Sir WILLIAM HAMILTON—for philosophy, no doubt—and happened on historical work for the *Encyclopædia Britannica* which Professor BAYNES was then editing, and so at length in 1875 he entered the Edinburgh Parliament House, which we presume was equivalent to a call to the Bar.

Well, we have only got to the beginning of Lord SHAW'S legal career, and we seem to have made the prelude over long. But of the details of legal work he gives us very little. There was his defence of DOHERTY, a man who unintentionally killed a passer-by who grossly insulted his sweetheart. "It was as plain a case of manslaughter—or, as they say in the North, of culpable homicide—and as plainly not a case of murder, as ever was seen." But there was a verdict of murder, the Home Secretary refused to interfere and DOHERTY was hanged. The rest we prefer to leave in Lord SHAW'S own words:

> "JOHN BRIGHT in his place in Parliament denounced the transaction as a judicial murder. And a judicial murder it was. From that hour to this I have ceased to believe in the punishment of death. Cases, in the intervening years, have occurred which have deepened my conviction. Every human judgment is mingled with human error, and in the issues of life and death no judge should be charged with an irrevocable doom."

And then there was a case of alleged forgery—acceptance of bills—which seemed dead against the prisoner, who was advised to plead guilty. But when he came and sat in the dock between two policemen, placing his two hands on the rail in front—

> "*Those hands did it!* I should explain to you that the forgery was the most skilful I have ever known—a precise and delicate piece of work.
>
> My doubts in an instant gave way to conviction that *those hands could never have done it.* They were broad, fat, bulgy, unwieldy. I leaned over the dock and said 'Mr. Prisoner' [the term by which Lord SHAW describes the accused] 'plead not guilty.' He rose, dazed but obedient, bowed to the judge [Lord YOUNG], and so pleaded. The judge said sharply: 'I thought this was to be a plea of guilty.' 'The prisoner pleads not guilty' said I. He looked at me, then at the prisoner, and the trial began."

And after some sensational evidence, it ended by the Judge saying firmly to the Crown Prosecutor, "Mr. Advocate Depute, of the two principal witnesses for the Crown, one or other has committed perjury." And so the case collapsed. This is all given *à propos* of the question whether it is right for an advocate to defend a prisoner whom he knows to be guilty, and Lord SHAW concludes:—

> "A wicked world, but upon the whole justice does come to its own. And in the course of that process, never have any doubt as to where the advocate's duty lies. What was the problem? 'Is it right for him to defend a man he knows to be guilty.' The presumption of an advocate even thinking that he knows! I learned my lesson. Let in such presumption, and Justice might be debauched by cowardice, and on coward's terms defeated."

And there is the trial of the Lewis Deer Raiders, a triumph for SHAW and the defence, when the offence was held to be trespassing in pursuit of game with a penalty of £5, though the prosecution was for "mobbing and rioting," and the Crown pressed for a sentence of penal servitude as necessary for the

* Letters to Isabel. By Lord Shaw of Dunfermline. With eight illustrations. Cassell & Co. Ltd.

interests of the State. And then we get to the 'Eighties and to politics and the letters pass somewhat outside our bounds, though the reminiscences of Mr. GLADSTONE are extremely interesting: "Mr. GLADSTONE, did you know Lord BROUGHAM?" "Lord BROUGHAM," said he with much animation, "he was one of my intimate personal friends." And there follow comments on SCARLETT and FOLLETT and other later lawyers. GLADSTONE'S own impression from the talk of great lawyers was that Sir HUGH CAIRNS stood first, and JESSEL second. The story GLADSTONE told of BETHELL, who found himself in the House compelled to defend the first China War, which in the Cabinet he had said could by no human ingenuity be defended, is too long to quote. Lord SHAW'S tenure of the office of Solicitor-General for Scotland, which unexpectedly came to him in 1894, was soon cut short by the defeat of the Rosebery Government in 1895. On the return of the Liberals in 1905, Sir HENRY CAMPBELL-BANNERMAN made him Lord Advocate, and, on the death of Lord ROBERTSON in 1909, he succeeded him as Lord of Appeal. We must leave the interesting accounts of the CARNEGIE benefaction for the Scotch Universities, which was largely due to Lord SHAW, and of the Free Church litigation which, it seems, Lord ALVERSTONE got all wrong in his "Recollections." On the other hand, at p. 123, by a slight error, there is a statement that, in former times in Ireland, any Protestant might take his Catholic neighbour's "house" by paying £5 for it. Of course, it was the horse which could be commandeered in this way: see Lecky, I., p. 146, where the references to the statutes are given, and p. 150 with a relevant quotation from DRYDEN. We must pass over Lord SHAW'S comments on his work in the House of Lords and Privy Council, and we cannot here refer further to his American Addresses, or to his work for the League of Nations scheme. The book is one of very exceptional interest.

The Rent Restriction Act: Retrospect and Prospect.

III.—THE FORM OF AN AMENDING ACT.

HAVING discussed the policy of the statute from the legal practitioner's point of view and having suggested details which, it would seem, require reconsideration and amendment, we now propose to outline what in our view should be the form of any amending Bill which is intended to avoid the difficulties essential to the lack of plan and arrangement shown in the scheme of the present Act. Of course, we do not propose to offer a draft of our own; that is the task of the draftsman whom the Government may employ, and it would be an impertinence, as well as somewhat unprofessional, on our part to tender him a document of our devising. We merely propose to indicate in skeleton outline the points in which, in our view, the amending Bill might improve in form upon the principal Act.

This will involve consideration of:—

1. The machinery to be adopted in the Bill.
2. Its essential provisions.
3. The arrangement of the Clauses embodying this form.

We will discuss each of these in succession, and will indicate, so far as practicable and convenient, the minimum alteration of the statute necessary to carry out our suggested scheme. In doing so we will leave out of account any amendments in substance of the Act, except the dropping of the mortgage-interest provision, and will confine our suggestions to the adaptation in form, not to amendments in substance of the Act.

1. *Machinery of the Act.*—As regards the machinery to be adopted in the Bill, we have already indicated our view that the simplest and most effective way of carrying out the intention of the Legislature, namely, the protection of tenants against the dangers of a house monopoly, is to annex a new statutory tenant-right to the tenancy of protected premises. This tenant-right, the nature of which will be discussed in a moment, should be annexed to (A) the tenancy of any house within the statutory limits of value let as a dwelling-house on 3rd August, 1914, or first let since that date, except in the case of a new house as defined in the previous Acts, and (B) the tenancy of any part of a house which satisfies similar conditions as to value and date, whether such part of a house is part of a larger house not within the Act, or part of a house which is itself within the Act.

The effect of this provision would be to put (A) self-contained houses, (B) flats in large houses, and (C) rooms or sets of rooms in a protected house, all on exactly the same footing as regards protection, rental increases, repairs, and the like. It would dispose of any question of apportionment, since in every case in which a house was sub-let in parts, the "standard" rent of each such part would be determined exactly as if it were a complete dwelling-house, *i.e.*, by ascertaining either (A) the rent of 3rd August, 1914, or (B) the last rent, prior to that date, or (C) the first rent since that date, according as the house was let on that date, or had been let before that date on a tenancy which had ceased, or had been first let since that date. At present this is the mode of assessing the standard rent of a set of rooms sub-let in a house which is outside the Act (because of its high rent), but is not the mode of assessing the "standard rent" of a similar set of rooms sub-let in a house within the Act; in the latter case the "standard rent" has to be fixed by "apportionment." There seems no good ground for this anomaly between two classes of sub-tenants, and our plan would abolish it.

The tenant-right to be annexed to all tenancies (including sub-tenancies and under-sub-tenancies) of premises the standard rent of which brings them within the Act, should be defined so as to take the shape of a statutory right on the part of any such tenant, upon the expiry of his tenancy at common law, to require renewal of the same from the landlord as if a covenant giving an option to renew had been inserted in the original tenancy. Such right, of course, would be lost by forfeiture of the premises for any ground of forfeiture at law, unless relief in equity against forfeiture was obtained from the court; this is substantially the result of the somewhat complicated provisions at present contained in the statute. It would run with the premises, and, of course, would be affected by assignment, surrender, bankruptcy of the tenant, and the like incidents of legal transfer, just in the same way as the tenancy itself is affected by those events. Such a provision would avoid most of the complicated questions arising out of surrender and bankruptcy and assignment, which have arisen under the Act.

The statutory right of renewal thus created would be subject to three conditions, which are to be found scattered throughout the statute in all sorts of odd places, namely:—

(1) The right of the landlord, on renewal as demanded in accordance with the tenant-right, to make the increases of rent, rates, etc., allowed by the Act in the manner and subject to the conditions as to repairs, etc., contained in the Act at present. Notices, however, which have given endless trouble—in fact no landlord nor his agent nor his legal adviser is ever quite sure that he has given the notice to increase rent quite in the correct form until his case has been before the court and the notice adjudged good—these statutory notices would no longer be required, since the increases would arise automatically out of the renewal of the tenancy. Anxieties as to the necessity and validity of a "notice to quit" would also disappear, since the right to renew would arise on the expiry of the common law tenancy in the common law way—a matter with which landlords are already familiar. As at present, the right to a renewal on the new terms would arise either (1) on the expiry of a fixed term, or (2) on the expiry of a common law notice to quit in the case of a periodic tenancy, or (3) on the surrender, etc., of a tenancy otherwise terminating.

(2) The right of the landlord to obtain relief against the tenant-right upon an application to the court on any of the grounds, and subject to the conditions, now embodied in the famous s. 5 of the Act.

(3) All the other terms and conditions of the original tenancy to be incorporated in the renewed tenancy except, of course, any which negative the existence of the statutory tenant-right itself.

It is claimed that the scheme outlined above would give full effect to the intent of the Legislature, embodied in the Rent Restriction Acts, while avoiding the ambiguities, intricacies and subtleties inherent in the inchoate way in which the new "statutory tenancy," is implied in the Acts. A statutory right to a renewal of a lease on statutory conditions is a simple matter, covering the familiar ground of an existing class of common form covenants, and leaving no doubt as to the nature of the tenancy (A) before renewal, and (B) after renewal. Moreover, it is always simpler to attach a new incident to an existing form of tenancy than to invent a brand new kind of statutory-tenancy fenced round with peculiar incidents not found in anyother kind of tenancy.

2. *Essential Provisions of the Act.*—It is not necessary to discuss the essential provisions of our proposed skeleton draft at any considerable length. They all follow logically when one proceeds to find places for the details of the previous Acts in a Bill based on the creation of a new tenant-right. It is submitted that the following provisions would necessarily appear in such a scheme :—

(*a*) The creation of the statutory tenant-right indicated above.

(*b*) The attachment to that tenant-right of the three classes of conditions set out above.

(*c*) Special restrictions upon common law rights imposed (subject to a penalty) in the case of premises subject to the statutory tenant-right, *e.g.* :—

(1) Restriction on levy of distress ;
(2) Restriction on premiums and key money ;
(3) Restriction on misleading entries in rent book ;
(4) Restriction on contracting out of the Act ;

and perhaps one or two others to be ascertained only by a meticulous perusal of the present Act in all its out-of-the-way holes and corners.

(*d*) Enactment of a right to recover sums paid in excess of the amounts permitted by the Act.

(*e*) Special procedure in the case of tenancies subject to the statutory tenant-right.

It is believed that, apart from the mortgage-interest sections, and those relating to business premises which have expired, all the provisions of the existing Acts will readily find an appropriate place in one or other of the above five headings. For instance, the clauses constituting the statutory tenant-right would contain all necessary provisions as to locality of premises and value, and exclusion of furnished premises, service flats, and the like.

3. *The arrangement of the Clauses embodying the proposed Scheme.*—It remains only to indicate approximately the order in which the existing clauses of the Increase of Rent and Mortgage Interest Act, 1920, would be incorporated, with the necessary simplifications and amendments, in our suggested re-modelling of the statute. It would be, roughly, as follows :—

(*a*) Creation of the Statutory Tenancy—
Sections 12, 18 and 19 [very much modified].
(*b*) Incidents of the Statutory Tenancy—
Sections 1, 2, 3, 9, 10 [Increase of Rent].
Sections 5, 16 (3) [Recovery of Possession].
Sections 15, 16 (2) [Conditions of Statutory Tenancy].
(*c*) Special Restrictions—
Section 6 [Levy of Distress].
Section 8 [Premiums].
Section 11 [Statement as to Standard Rent].
And a few miscellaneous sub-sub-sections in other clauses.
(*d*) Recovery of Excess Payments—
Section 14.
(*e*) Procedure—
Section 17.

Of course, we have left out of account sections dealing with mortgage interest only.

(*Concluded*).

Contracts in Restraint of Trade.

Definition.—A contract whereby a person of sound mind and contractual ability and intention restrains himself from freely exercising his trade, business, or profession.

How the Courts regard such Contracts.—*Primâ facie* as illegal on the ground of Public Policy : *Davies* v. *Davies* (1887, 36 Ch. D. 359). If, in the circumstances of any particular case, they are reasonable, and not injurious to the interests of the public, such contracts are enforceable : *Mitchell* v. *Reynolds* (1 P. Wms. 181) ; *Nordenfelt* v. *Maxim-Nordenfelt Co.* (1894, A.C. 515).

When part of a Bargain of Sale.—It is of supreme importance to bear in mind the vital difference between :—

(*a*) Contracts in restraint which are part of a bargain for the sale of the goodwill of a business as in the great *Nordenfelt Case* (*supra*), and

(*b*) Contracts in restraint not part of such a bargain, but arising merely out of a pactus or conventum for service or employment, as in the important case of *Herbert Morris, Ltd.* v. *Saxelby* (1916, 1 A.C. 688).

In the former class of contracts a restraint is more readily enforceable upon the short ground that a man shall not derogate from his grant, though it must still be required for the protection of the business sold : *British Reinforced Concrete* v. *Schelff* (1921, 2 Ch. 563) ; in the latter class there is no property or proprietary rights transferred.

Trade Secrets.—The Courts will always prohibit an employee from divulging to persons outside the ambit of his employment such information and materials as are of a secret or confidential character.

Distinction between Subjective and Objective Knowledge.—In *Morris* v. *Saxelby* (*supra*) the House of Lords divided the acquired knowledge of an employee into two parts, viz. :—

(*a*) "*Subjective*" *skill and knowledge* or what belongs to the individual servant himself : for example—a man's aptitudes, his skill, his dexterity, his manual or mental ability, all those things which in sound philosophical language are not "objective" but "subjective" ; they may not and they ought not to be relinquished by a servant ; they are not his master's property ; they are his own property ; they are himself. There is no public interest which compels the rendering of those things dormant or sterile or unavailing ; on the contrary, the right to use and to expand his powers is advantageous to every citizen and may be highly so for the country at large.

(*b*) "*Objective*" *skill and knowledge* which is the property of the employer : for example, trade secrets, names of customers and the like—these may not be given away by a servant ; they are his master's property, and there is no rule of public interest which prevents the transfer of them against the master's will being restrained : *Leather Cloth Co.* v. *Lorsont* (9 Eq. 345, 353) ; *Fitch* v. *Dewes* (1921, 2 A.C. 158).

Combination Agreements.—The Courts will sometimes hold as unlawful agreements between a combination of employers whereby by a majority of their number they may suspend work partially or altogether, and the discipline and management of their establishments, and thus deprive one of them of the control of his own business : *Hilton* v. *Eckersley* (24 L.J., Q.B. 353, 25 *ibid.* 199) ; *McEllistrim* v. *Ballymacelligott Co-op. Society, Ltd.* (1919, A.C. 548) ; *Evans & Co. Ltd.* v. *Heathcote* (1918, 1 K.B. 418). But here again if there is a "reasonable object" in view, *e.g.*, legitimate competition, the combination is not *per se* unlawful : *Mogul S.S. Co.* v. *McGregor* (1892, A.C. 25) ; *Davies* v. *Thomas* (1920, 2 Ch. 189).

Trade Disputes Act.—The State has put Trade Unions outside the pale of the law where a combination of workmen can prove that what they do is in "furtherance of a trade dispute" ; *Trade Disputes Act*, 1906.

SOME POINTS TO NOTE.

(1) *Seal.*—Contracts whether under seal or not, are—all other things being equal—equally enforceable or attackable. In other words, there is no particular efficacy in a seal in cases of restraint of trade.

(2) *Consideration.*—There must be a valuable consideration.

(3) *Adequacy.*—The court will not, however, go into the question of its adequacy : *Hitchcock* v. *Coker* (6 L.J., Ex. 266).

(4) *Writing.*—Section 4 of the Statute of Frauds must be observed where the contract is not capable of performance within a year.

(5) *Uncertainty.*—A covenant may be void for uncertainty : *Davies* v. *Davies* (36 Ch. D. 359).

(6) *Joint and Several.*—A covenant joint in form has been held to be joint and several as to the covenantee : *Palmer* v. *Mallet* (36 Ch. D. 411).

(7) *Infant.*—If employee was an infant at the time of the making of the contract, it is enforceable against him if the contract is on the whole beneficial to him. The Infants' Relief

Act, 1874, does not apply. Even restraint clauses—if reasonable—in apprenticeship deeds have been enforced: *Fellows* v. *Wood* (1888, 59 L.T. 513); *Evans* v. *Ware* (1892, 3 Ch. 502); *Walter* v. *Everard* (1892, 2 Q.B.); *Clements* v. *L. & N. W. R.* (1894, 2 Q.B. 482); *Gadd* v. *Thompson* (27 T.L.R. 113); *Morrison, Fleet & Co.* v. *Fletcher* (1900, 17 T.L.R. 95); *Bromley* v. *Smith* (1909, 2 K.B. 235).

(8) *Severability.*—If part of restraint good and part bad, then if a clear line of demarcation can be made between the two parts, the court will enforce the former: *Price* v. *Green* (1847, 16 L.J. Ex. 308); *Mallam* v. *May* (12 L.J., Ex. 376); *Collins* v. *Locke* (1879, Ex. App. Cas. 674); *Dubowski* v. *Goldstein* (1896, 1 Q.B. 478); *W. Robinson* v. *Heuer* (1898, 2 Ch. 451); *Underwood* v. *Barker* (1899, 1 Ch. 300); *Goldsoll* v. *Goldman* (1915, 1 Ch. 292); *Attwood* v. *Lamont* (1920, 2 K.B. 146); *British Reinforced Concrete Co.* v. *Schelff* (1921, 2 Ch. 563); *Clarke, Sharp & Co.* v. *Solomon* (1921, 37 T.L.R. 176).

(9) *Onus Probandi.*—The onus of shewing that the contract was reasonably necessary for the protection of his business is upon the employer: *Bowler & Blake* v. *Lovegrove* (1921, 1 Ch. 642), (following *Morris* v. *Saxelby*, *supra*, and *Attwood* v. *Lamont*, 1920, 3 K.B. 571).

(10) *Covenant in Gross.*—A covenant in gross, *i.e.*, not for the protection of the covenantee in his business, is unreasonable: *Townsend* v. *Jarman* (1900, 2 Ch. 702).

(11) *Injury to the Public.*—A restraint, although not more than is necessary for reasonable protection of the covenantee's business, may yet be injurious to the public and therefore void: *Morris* v. *Saxelby* (*supra*).

(12) *Prevention of Competition or the use of Personal Skill.*—A restraint—not part of transfer of property—if directed only to the prevention of competition or against the use of the personal skill and knowledge acquired by the employee in his employer's business—"subjective knowledge"—is unenforceable: *Morris* v. *Saxelby* (*supra*); *Sir W. C. Leng & Co.* v. *Andrews* (1909, 1 Ch. 763); *Mason* v. *Provident Clothing Co.* (1913, A.C. 724); *A.-G. of Australia* v. *Adelaide S.S. Co.* (1913, A.C. 781); *Attwood* v. *Lamont* (*supra*); *Hepworth Mftg. Co.* v. *Ryott* (1920, 1 Ch. 1).

(13) *Use of Name.*—Whilst a person may as part of a transfer of goodwill restrain himself from using his own name or his pseudonym, yet as between employer and employee it may be tyrannous and oppressive: see the important case of *Hepworth* v. *Ryott* (*supra*).

(14) *Question of Law.*—Whether a particular restraint is reasonable or not is a question of law: *Dowden & Pook, Ltd.* v. *Pook* (1904), 1 K.B. 45; *Haynes* v. *Doman* (1899), 2 Ch. 24.

(15) *Service for Life.*—A man may contract to serve his employer for life: *Wallis* v. *Day* (2 M. & W. 273).

(16) *Measuring Distances.*—Distances are *primâ facie* measured as the crow flies, that is, in a straight line on the map, neglecting curvature and inequalities of surface: *Mouflet* v. *Cole* (L. R. 8 Ex. 32).

(17) *Aliens.*—An alien, equally with an Englishman, is entitled to protection from unreasonable restraint: *Rousillon* v. *Rousillon* (14 Ch. D. 351).

(18) *Covenantee committing Breach.*—If an employer wrongfully dismisses his employee or otherwise wrongfully breaks his contract, he cannot enforce a restraint clause therein, even if otherwise enforceable: *General Billposting Co.* v. *Atkinson* (1909, A. C. 118); *Measures* v. *Measures* (1910, 2 Ch. 248).

(19) *Liquidated Damages or Penalty?*—If, instead of applying for an injunction, the plaintiff sues for the sum named in the contract as "liquidated damages" for the breach, it may be necessary to consider whether it is really a penalty and therefore unenforceable as such.

(20) *No Negative Stipulation.*—No injunction will be granted unless there is a negative stipulation: *Mortimer* v. *Beckett* (1920, 1 Ch. 571).

(21) *Office outside radius: Business within.*—It is a breach if business is done within the prohibited area, although the office is outside: *Edmundson* v. *Render* (1905, 2 Ch. 320); *Hadsley* v. *Dayes-Smith* (1914, A.C. 979).

(22) *Reasonable Restraints.*—Contracts restraining trade with a limited number of persons, and covenants by a trader not to supply the customers of another trader, are generally good: *Pilkington* v. *Scott* (15 M. & W. 657); *Rannie* v. *Irvine* (7 Man. & G. 969); and see *Spence* v. *Mercantile Bank of India, Ltd.* (37 T.L.R. 745). A covenant is good when it only regulates or confines the manner in which the trade is to be worked: *Jones* v. *Lees* (1 H. & N. 189).

(23) *Changed Conditions.*—The introduction of railways and telegraphic systems, the rapidity of transit and communication, and keen commercial rivalry and competition have necessitated the words "reasonable space" being construed more favourably to the covenantee than hitherto, and in the *Nordenfelt Case* a world-wide restriction was upheld.

(24) *Cesser of Business of Covenantee.*—A covenant can be enforced even if the business to be protected has ceased: *Elves* v. *Crofts* (10 C.B. 241).

(25) *Assignee of Covenantee.*—A restrictive covenant can be assigned with goodwill: *Townsend* v. *Jarman* (1900, 2 Ch. 698); *Whitmore* v. *King* (1919, 87 L.J. Ch. 647).

(26) *Restraint upon Criticism.*—An agreement by a newspaper not to publish any comment upon individuals or companies is in restraint of trade and contrary to public policy: *Neville* v. *Dominion of Canada News Co., Ltd.* (1905, 3 K.B. 556).

(27) *Partnership.*—Restraints as between partners, if reasonable, are enforceable: *Gale* v. *Reed* (8 East 80); *Leighton* v. *Wales* (7 L.J. Ex. 145).

Conclusion.

It should be carefully noted that in the leading cases of *Mitchell* v. *Reynolds* and *Nordenfelt* v. *Maxim-Nordenfelt Co.*, the restraint was part of a bargain of sale. For those of us who are engaged in—

> "Mastering the lawless science of our law,
> That codeless myriad of precedent,
> That wilderness of single instances"—

I would like to refer to a useful *summary of cases* decided up to the year 1854 given in tabular form in the case of *Avery* v. *Langford*, (Kay, 663), and continued in similar form in Sir Frederick Pollock's well-known book on contracts. To try and reconcile some of the numerous cases on restraints is a somewhat Herculean task and, in my humble judgment, a good many of the earlier ones must be carefully considered and analysed in conjunction with and in the light of the important recent cases of *Nevanas* v. *Walker* (1914, 1 Ch. 413); *Eastes* v. *Russ* (1914, 1 Ch. 468); *Mason* v. *Provident Clothing Co.* (1913, A.C. 724); *A.-G. of Australia* v. *Adelaide SS. Co.* (1913, A.C. 781); *Hepworth* v. *Ryott* (1920, 1 Ch. 1); *Leng* v. *Andrews* (1909, 1 Ch. 763); *Bowley & Blake* v. *Lovegrove* (1921, 1 Ch. 642); *Fitch* v. *Dewes* (1921, 2 A.C. 158); *Attwood* v. *Lamont* (1920, 3 K.B. 573); *Ropeways, Ld.* v. *Hoyes* (1919, 120 L.T. 663); *Morris* v. *Saxelby* (1916, A.C. 688). These cases seem to exhibit a tendency on the part of our judges to insist upon the covenantee satisfying the court that the restraint sought to be enforced is indeed not one whit more than is reasonably necessary to protect his business, and moreover is not injurious to the interests which the public have in the application of the brains of the worker for the good of the State.

R. Denithorne.

The Redemption of Tithe Rent-Charge.

(*Continued from page* 29.)

III.—Local Rates and Tithe Rent-charge.

It should be borne in mind that under the Tithe Rent-charge (Rates) Act, 1899, the owner of tithe rent-charge attached to a benefice is liable to pay only half the amount of any rate to which the Act applies, and which is assessed on him as owner of the tithe rent-charge. The remaining half of the rate must be paid to the collector of the rate by the Commissioners of Inland Revenue on demand being made by the collector on the Inspector of Taxes for the district. This Act applies to all rates except those for the purposes of which the owner of tithe rent-charge, as compared with the occupier of buildings, is liable to be assessed, or to pay in the proportion of one-half or less than one-half. No abatement can be claimed under the Act of 1899 in respect of these excepted rates, whether the tithe rent-charge is attached to a benefice or not. The Act remains in force during the continuance of the Agricultural Rates Act, 1896.

Section 4 of the Welsh Church (Temporalities) Act, 1919, extends these provisions for remission to any tithe rent-charge which was previously attached to a benefice affected by the Welsh Church Act, so long as such tithe rent-charge remains vested in the Welsh Church Commissioners.

Further relief in respect of rates is accorded to ecclesiastical tithe owners by the Ecclesiastical Tithe Rent-charge (Rates) Act, 1920, which provides for the following two forms of relief from the payment of rates assessed upon tithe rent-charge in the cases to which it applies, viz.:—

(A) The owner of tithe rent-charge attached to an ecclesiastical corporation or benefice is not to be liable to pay in respect of any rate assessed upon him as owner of the tithe rent-charge a greater amount than he would have been liable to pay if the rate had been made at the amount in the £ at which the corresponding rate was made in the year 1918; and

(B) In the case of tithe rent-charge attached to a benefice the owner of the tithe rent-charge is relieved wholly from the payment of the rates assessed upon him as owner of the rent-charge where the total income arising from the benefice for the preceding year, estimated in accordance with the provisions of the Income Tax Acts, did not exceed £300; and

where such total income exceeded £300 and did not exceed £500, he is relieved from payment of half the amount of the rates that would otherwise be payable by him in respect of the rent-charge.

The relief afforded by the Act applies to rates assessed on owners of tithe rent-charge attached to Ecclesiastical Corporations or benefices during the period from the 1st April, 1920, to the 31st December, 1925, inclusive.

It is to be noted that the Act of 1920 does not apply to any tithe rent-charge owned by the Welsh Church Commissioners, the Ecclesiastical Commissioners, Charities, Colleges or private lay owners. Assuming the same figures as to rates, land tax and cost of collection as those in the above example, the effect of the relief afforded to certain classes of tithe-owners by the foregoing enactments would be to alter as follows the number of years' purchase of the par value of tithe rent-charge payable in such cases as the consideration for redemption :—

Ownership of Tithe Rent-charge.	Number of years' Purchase of *par* value payable for redemption.
Tithe rent-charge attached to a benefice, the total income of which for the years ending 5th April, 1920 and 1921, respectively :—	
(A) did not exceed £300	18.59
(B) exceeded £300 but did not exceed £500	18.12
(C) exceeded £500	17.65
Tithe rent-charge taken over by the Welsh Church Commissioners from Welsh incumbents	16.29
Tithe rent-charge owned by an Ecclesiastical Corporation	15.97
Tithe rent-charge owned by the Ecclesiastical Commission, Colleges, Charities, and ordinary lay tithe owners	13.24

The number of redemption cases completed in 1921 was 4,151, the tithe rent-charge affected amounting in all to £96,195, and the total consideration money to £1,697,325. The sum thus extinguished is not only greater than the amount for any previous year, but also exceeds by £23,000 the total sum redeemed from the commutation in 1836 to the passing of the Tithe Act, 1918. Of the £1,697,325 consideration money, £991,407 was paid in cash; the balance of £705,918 is being paid by means of annuities.

In 283 cases the landowner and tithe owner agreed upon the amount of consideration money for redemption, but in 3,840 cases the landowner requested the Ministry to determine the amount in accordance with the First Schedule to the Tithe Act, 1918. In 28 cases where the land was charged with tithe rent-charge which was payable to two tithe owners, the applicant arrived at an agreement with one tithe owner as to the consideration money but, in default of an agreement with the other tithe owner, requested the Ministry to determine the compensation payable to the latter.

It will be observed that the highest number of years' purchase was paid in cases of the redemption of tithe rent-charge owned by incumbents, and that the lowest redemption price was paid in cases of tithe rent-charge owned by the Ecclesiastical Commissioners and ordinary lay owners. The comparatively high cost of redemption in the case of tithe rent-charge payable to incumbents, the Welsh Church Commission and capitular bodies, appears to have been due to the operation of the enactments above referred to regarding rates on tithe rent-charge. It will further be noted that in the few cases in which the amount of the consideration money was agreed between the parties, the redemptioner as a rule paid more than in those cases where the amount was determined by the Ministry in accordance with the First Schedule to the Tithe Act, 1918.

(*Concluded.*)

Books of the Week.

Public Health.—Glen's Law of Public Health and Local Government. 14th edition. By the late Alexander Glen, K.C., M.A., LL.M. Cantab. Randolph A. Glen, M.A., LL.B., Cantab., and G. W. Bailey, Barristers-at-Law. Vol. 2. Part 4. Div. 2. Miscellaneous Acts. Sweet & Maxwell, Ltd. 2 vols., £7 10s. net; 6 vols., £8 net.

Criminal Appeals.—Criminal Appeal Cases. Edited by Herman Cohen, Barrister-at-Law. July 24, 25, 27, 28; August 3, 21; 1922. Vol. 17. Part 1. Sweet & Maxwell, Ltd. 10s. net, prepaid; sub. to vol. 17, 40s. net.

Practice.—The A.B.C. Guide to the Practice of The Supreme Court, 1923. 18th edition. By F. R. P. Stringer, of The Central Office of the Supreme Court. Sweet & Maxwell, Ltd. Stevens & Sons, Ltd. 8s. 6d. net.

The Law Quarterly Review.—October, 1922. Edited by A. E. Randall, Barrister-at-Law. Stevens & Sons, Ltd. 6s. net. Annual subscription, post free, 20s.

The Massachusetts Law Quarterly. August, 1922. Massachusetts Bar Association, Boston, Mas.

Correspondence.

Indorsement of Cheques.

[*To the Editor of the Solicitors' Journal and Weekly Reporter.*]

Sir,—A client of ours carries on business in his own name. His customers indulge in a number of vagaries in making out their cheques to him. Sometimes they turn him into a Limited Company; at others they give him a "Co." as partner though there is no Mark Tapley to fill the post, but he is puzzled, as we are, when they describe him as "Messrs."—say Messrs. Jones. Under the latter circumstances how should the cheque be endorsed? We hear that a leading official in the Bankers Clearing House states that cheques should always be endorsed as they are made out so that apparently such a cheque should be endorsed "Messrs. Jones." We knew this addition of the courtesy title was customary in foreign cheques, but it is new to us in England. We hear, too, that occasionally the Bankers are instructed to return cheques that leave out the courtesy title on the endorsement, but that when they are so instructed they make a special mark against the customer who makes the request realising that he has other reasons for doing it than a mere craving for technicalities.

Can you assist us in the matter?

Mark Lane.

21st October.

[We believe that the usual practice is for the payee to indorse the cheque as made out, and then to add his usual signature.—Ed. *Sol. J.*]

CASES OF LAST SITTINGS.

Court of Appeal.

In re **CHAPLIN'S AND THE STAFFORDSHIRE POTTERIES WATERWORKS COMPANY'S CONTRACT AND** *In re* **THE VENDOR AND PURCHASER ACT, 1874.** No. 1. 20th and 27th July.

Executors—Power of Sale—Freehold Land—Mines and Minerals—Power to sever Mines from Surface on Sale—Sanction of Court—Trustee Act, 1893 (56 & 57 Vict. c. 53), ss. 44, 50—Trustee Act, 1893, Amendment Act, 1894 (57 Vict. c. 10), s. 3—Land Transfer Act, 1897 (60 & 61 Vict. c. 65), ss. 1, 2.

The executors of a deceased testator whose freeholds are vested in them under the Land Transfer Act, 1897, have power to sell surface land separately from the underlying mines and minerals without the necessity of applying for and obtaining the sanction of the court, as is required of trustees by the Trustee Act, 1893, s. 44, although they may not be expressly authorised so to do by the testator's will.

In re Wicksted's Trust (1921, 2 Ch. 184) *overruled.*

Decision of Sargant, J., *reversed.*

Appeal from a decision of Sargant, J., on a vendor and purchaser summons, raising the important question whether executors on a sale of freehold land by virtue of their powers under the Land Transfer Act, 1897, can sell the surface of land apart from the underlying minerals, or the minerals apart from the surface, without obtaining the sanction of the court. By a contract dated 3rd September, 1921, the Hon. Eric Chaplin and the Duke of Argyll and the Hon. Sir Arthur Lawley, as executors of the late Duke of Sutherland, agreed to sell and the Staffordshire Potteries Waterworks Company agreed to purchase, first, a piece of freehold land situated at Meir Langton, and, secondly, certain minerals therein described which lay partly under the land, the surface of which was thereby agreed to be sold, but to a greater extent under adjacent lands, the surface of which was not comprised in the contract of sale, but was retained by the vendors. On behalf of the purchasers, the objection to title was taken that the vendors, as personal representatives of the late Duke, appeared to have no power to sell the minerals apart from the surface, in the absence of any express powers in the will of the Duke authorizing such a sale, except with the sanction of the court. In these circumstances the vendors, who had already effected previous sales of over 1,000 lots of the Trentham Estate of the late Duke, reserving the minerals, took out this summons under the Vendor and Purchaser Act for a declaration that the vendors, as such executors, were entitled to sell the minerals comprised in the contract apart from the surface of the lands under which they were situated. Sargant, J., held, following the decision of Russell, J., in *In re Wicksted's Trusts* (1921, 2 Ch. 184), that the executors had no power to sell the minerals apart from the surface without the sanction of the court. The vendors appealed. *Cur. adv. vult.*

The Court allowed the appeal.

Lord STERNDALE, M.R., said he had read the judgments to be delivered by the other members of the court, and entirely concurred with them.

SCRUTTON, L.J., having stated the question, said that the court was told that the Staffordshire Potteries Waterworks Company were buying certain surface land for their undertaking, and were also purchasing a "cone of support" for that surface land. Such a cone naturally projected beyo nd the vertical limits of the surface land supported, and as to the portions beyond such limits they were severed by the purchase from the surface above them. To one approaching the question with an open mind, the first answer to the question raised was, "Why should not the executors deal with the land in such a way?" It was very common in mining districts to find the surface land and subjacent minerals vested in different owners. The surface land was useful for one set of purposes, the minerals for another, and the common link, the fact of and the right to support, might be dealt with in various ways. But in view of the decisions and subsequent statutes that answer was not sufficient. The applicants and appellants were executors dealing with the land as personal representatives. As such they were the creation of the Land Transfer Act, 1897, described in the title as "An Act to establish a real representative" which it did by never using that phrase again. Section 1 vested certain classes of lands, including the land in question, in the personal representatives "as if it were a chattel real." Section 2, s-s. (2), gave the personal representatives as to the real estate the same powers as if the real estate were a chattel real vesting in the personal representatives, with one exception, namely, that one executor of several could not give a good title to land, though he could to chattels real. What, then, were the powers of an executor as to chattels real, or terms of years in land? The answer was correctly given in *Williams on Executors* (10th Ed. at p. 707): "Executors may by virtue of their office dispose absolutely of terms for years, which are vested in them in right of their testators, and may make a good title even against a specific legatee unless the disposition be fraudulent. The purchaser's title is complete by sale or delivery; what becomes of the price is of no concern to him"—per Lord Thurlow in *Scott* v. *Tyler* (2 Dick., 725). He might absolutely sell the whole or part of the assets, or mortgage them, and one executor of several might validly sell, *i.e.*, assign the whole of a term of years (Dyer, 23*b*; *Simpson* v. *Gutteridge*, 1 Maddocks, 615; and *Coles* v. *Miles*, 10 Hare, 179). That power of a single executor was expressly excluded by s. 2 (2) of the Land Transfer Act, 1897, which, therefore, impliedly recognized the power of executors to sell a chattel real, or land vesting in them. But if the executors purported to deal with the land in an exceptional way that would be notice of irregularity to the purchaser, who took it subject to the burden of showing that it was the best way of administering the assets: see *Keating* v. *Keating* (2 Lloyd and Goold, 133); and *Oceanic Steam Navigation Company* v. *Sutherberry* (16 Ch. D. 236), where the executor made a short underlease of a term with an option to purchase at the end of the underlease at a price fixed on the granting of the underlease. The Court of Appeal held that such an option of future sale was on the face of it beyond the powers of an executor or administrator, and Sargant, J., had relied on that decision. He thought it clear that to split land into layers and deal with the layers separately, as when surface only or minerals only were sold, was a peculiar and unusual method of dealing with land. So far as that was a finding of fact, there was no evidence before him and he must have been proceeding on his judicial knowledge. Using the same source of knowledge he (his lordship) would respectfully have said that it was not peculiar or unusual to have surface and minerals in different hands in mining districts. Here it was only the necessity for adequate support that divorced certain minerals from the surface land above them. It might be that the key of the learned judge's judgment was in the following words: "Splitting, &c., has been expressly recognized as outside the power or discretion of ordinary trustees for sale. It follows, therefore, that legal personal representatives were under a similar disability with regard to leaseholds." That, as regards trustees for sale of land, was so held in *Buckley* v. *Howell* (29 Beav. 546), a decision of Lord Romilly, rested on the analogy of timber, and criticized by Rigby, L.J., and Lindley, L.J. in *In re Gladstone, Gladstone* v. *Gladstone* (1900, 2 Ch. 101, at p. 106). The decision led to the Confirmation of Sales Act, 1862, confirming all existing sales not already adjudicated upon or in process of adjudication which would otherwise have been invalidated, and authorizing severance, unless the instrument creating the trust for or power of sale forbade severance, if previously sanctioned by the Court of Chancery. In his (his lordship's) view, that Act was limited to powers created by an instrument and had no relation to a power of sale inherent in the person of an executor. The decision of Lord Romilly had nothing to do with executors or terms of years. But in 1893 the Trustee Act was passed and it repealed the Act of 1862, substituting s. 44 applying to "trustees" and extended by s. 3 of the Act of 1894 to "other persons." And by s. 50 the definition clause of the Act of 1893 included in "trustees," unless the context otherwise required, "the duties incident to the office of personal representative of a deceased person," which at that time did not include duties as to land, except in the case of land charged with debts. That section did not purport to invalidate any severance of land or minerals or contain any provision that the validity of such a transaction should depend on the sanction of the court. It was in his (his lordship's) view an enabling section, not one destroying existing rights. In 1912, Neville, J., had to consider whether an executor selling real estate could sever land and minerals, and he held that he could (*in re Cavendish and Arnold*, 1912, W.N. 83; 56 SOL. J. 468). But his attention was not called at the time to s. 50 of the Trustee Act, 1893, and when it was he requested that the case should not be reported further than in the Weekly Notes. Russell, J., sanctioned a severance by an executor in *In re Wicksted's Trust* (1921 2 Ch., 184), as the Trustee Act, 1893, s. 44, authorized him to do. But having heard argument on one side only, he took occasion to remark *obiter* that not only could he give such sanction, but that it was necessary for the executor to obtain it. Sargant, J., had taken the same view. He (his lordship) had come to the conclusion that Neville, J., was right, and that the *dictum* of Russell, J., and the decision of Sargant, J., were erroneous. In his view the executor had power to dispose of chattels real by sale or assignment either of the whole or of part in the ordinary way, and if severance of land and minerals was an ordinary way of sale the executor could so sever. The Act of 1893, if it gave executors power to protect themselves by obtaining the sanction of the court, did not take away the power which they already possessed of selling in the ordinary way without the sanction of the court, so as to give a good title. Further, sales by severance of land and minerals were, as a matter of fact, in mining districts an ordinary way of selling land. A declaration should be made that the executors were entitled to sell the minerals severed from the land without obtaining the sanction of the court, and that the vendor's answer to the requisition on the subject was a good one.

YOUNGER, L.J., delivered judgment to the same effect.—COUNSEL: *Maugham*, K.C., and *J. W. F. Beaumont*; *Farwell*. SOLICITORS: *Doyle, Devonshire & Co.* for *Kent & Jones*, Longton; *Knight & Sons*, Newcastle-under-Lyme.

[Reported by H. LANGFORD LEWIS, Barrister-at-Law.]

High Court—Chancery Division.

In re GRETTON'S INDENTURE. *In re* RATCLIFFE AND BRINCKMAN'S TRUSTS. HOOD *v.* LADY BYRON.

Romer, J. 23rd and 27th June and 27th July.

INCOME TAX—ANNUITY BEQUEATHED "FREE OF LEGACY DUTY, INCOME TAX AND ALL OTHER DUTIES"—SUBSEQUENT AGREEMENT TO PAY A SMALLER BUT SIMILAR ANNUITY BY WAY OF COMPROMISE OF DISPUTE OVER VALIDITY OF WILL—PAYMENT IN FULL WITHOUT ALLOWING DEDUCTION—AGREEMENT VOID—INCOME TAX ACT, 1842 (5 & 6 Vict. c. 35), s. 103—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), General Rules, Schedule I, rule 23, sub-rule (2).

An agreement of compromise of a dispute over the validity of a will had the effect in its later provisions of violating s. 103 *of the Income Tax Act*, 1842, *and although, by its earlier provisions, it merely substituted for an annuity given by the will free of legacy duty, income tax, and all other duties whatsoever, a similar, though smaller, annuity, that similar or smaller annuity was held not to be payable free of either income tax or super-tax.*

Originating summons. This was a summons to determine whether an annuitant was entitled to have her annuity paid in full, free of income tax and super-tax, or not. The facts were as follows: The testator bequeathed a clear yearly sum or annuity of £6,000 to B during her life "free of legacy duty income tax and all other duties whatsoever," and directed that if the annuitant so desired his trustees should purchase such an annuity in her name. And he gave the residue of his real and personal estate to two of his sisters. The testator died in 1882 and his will was disputed by his brother and heir-at-law and by his three sisters, who together with the brother constituted his next-of-kin. There was a deed of compromise which provided, (1) that in lieu of the annuity of £6,000, B should accept an annuity of £5,000 clear of legacy duty, income tax, and all other duties whatsoever, which annuity should be secured out of the estate, but not so as to impose any personal liability on the two sisters, and that for five years B should waive her right under the will to call for the purchase of the annuity; (2) power was given to the heir-at-law and the two sisters to purchase sufficient stocks to provide for the annuity and hold them on trust after the cessation of the annuity as part of the residuary estate of the testator; (3) on such purchase the right given to B to call for the purchase of an annuity should cease, with provision for the payment of her annuity out of the corpus of the fund, if necessary; (4) the two sisters covenanted to indemnify B against all tax, legacy and other duties payable by B in reference to the annuity. The two sisters did within the five years purchase stock producing £5,300 per annum, and the trustees declared by deed poll that they would stand possessed of such stock on trust to pay the annuity to B and the income tax and all duties whatsoever, and subject thereto to hold the same as part of the residuary estate of the testator. Disputes then arose owing to the increased rates of income tax and super-tax, and this summons was taken out.

ROMER, J., after stating the facts, said: While the agreement contained in clause 1 of the deed to take a smaller annuity in lieu of the larger one bequeathed to her by the will does not offend the provisions of s. 103 of the Income Tax Act, 1842 (now replaced by rule 23, sub-rule (2), of the General Rules in Schedule I of the Income Tax Act, 1918), yet the effect of the later provisions of the deed, when resorted to, is to secure to B an annuity no longer derived under the will alone, but depending upon an agreement which is in direct violation of s. 103 of the Income Tax Act, 1842, and is therefore void. B is accordingly not entitled to have the annuity of £5,000 paid to her free of either ordinary income tax or super-tax. COUNSEL: *W. A. Greene*, K.C.; *Barrington Ward*, K.C.; *Farwell*; *Maugham*, K.C., and *Bremner*. SOLICITORS: *Radcliffes & Hood*; *Dollman & Pritchard*.

[Reported by L. M. MAY, Barrister-at-Law.]

High Court—King's Bench Division.

KING *v.* MILLEN. Div. Ct. 28th July.

LANDLORD AND TENANT—EMERGENCY LEGISLATION—FLAT—COVENANT BY LANDLORD TO KEEP HALL AND COMMON STAIRCASE CLEAN—HOUSE "*bonâ fide* LET AT A RENT WHICH INCLUDES ATTENDANCE"—INCREASE OF RENT AND MORTGAGE INTEREST (RESTRICTIONS) ACT, 1920 (10 & 11 Geo. 5, c. 17), s. 12 (2) (1).

A covenant by a landlord, contained in an agreement for the lease of a flat, that he will keep the hall and staircase properly cleaned, does not constitute "attendance" under s. 12 (2) (1) *of the Increase of Rent and Mortgage Interest (Restrictions) Act, so as to prevent that statute from applying to the flat in question.*

Nye *v.* Davis (1922, 2 K.B. 56) *distinguished.*

Appeal from the West London County Court. By an agreement dated 31st March, 1921, and made between Miss King, thereinafter called "the landlord," and Mr. Millen, thereinafter called "the tenant," the landlord agreed to let and the tenant agreed to take all those six rooms on the second and third floors of and forming part of the messuage and dwelling-house known as 37, Collingham Place, together with the use of (jointly with other tenants of the premises) the main entrance door, hall, staircase of the premises, together with the use of the bathroom and w.c. situate on the half-landing between the first and second floors, together with the right of access to and from the basement of the premises, for three years at a rent of £140 per annum. The landlord agreed with the tenant to keep such parts of the premises as were used jointly or otherwise by the tenant in a proper state of repair and to keep the hall and staircase properly cleaned. The landlord applied to the county court for leave to distrain upon the premises occupied by the tenant for rent due from the tenant amounting to £70. It was contended on behalf of the tenant that excessive rent had been charged and paid, and that if an adjustment were made pursuant to the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, no rent, or only a small amount, would be found to be due. It was contended on behalf of the applicant that the premises did not come within the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, on the ground that the premises were a dwelling-house *bonâ fide* let at a rent which included payments in respect of attendance. The county court judge, following *Nye* v. *Davis* (1922, W.N. 14, subsequently reported in 1922, 2 K.B. 56), found that the premises were *bonâ fide* let at a rent which included payments in respect of attendance, and granted the application for leave to distrain, but also gave leave to appeal. By s. 12 (2) (1) of the statute above referred to it is provided: "This Act shall not, save as otherwise expressly provided, apply to a dwelling-house *bonâ fide* let at a rent which includes payment in respect of board, attendance, or use of furniture." The tenant appealed.

BAILHACHE, J., in delivering judgment, said that it had been said that because the landlord covenanted to keep the hall and staircase properly cleaned and covenanted to do this as part of the consideration for the rent, the premises were let at a rent which included payment in respect of "attendance." In *Nye* v. *Davis* the landlord undertook (*inter alia*) to remove house refuse from the flat, and to carry the tenant's coals up to the flat. The decision of that case was that the removal of the house refuse and the carrying up of coal amounted to attendance. Here there was no such thing as the removal of house refuse or the carrying of coal, but merely a contract to keep the common hall and staircase clean. In his lordship's judgment that covenant did not amount to attendance. Here there was no demise of any hall or staircase to the tenant, but a mere easement, and in his view a covenant by the landlord to keep the common hall and staircase clean, neither of them being part of the demise, was not attendance within the meaning of the Act. Nothing in the nature of personal service was rendered by the landlord to the tenant such as was rendered in *Nye* v. *Davis*. His lordship thought that the learned county court judge, who had not the full report of the case of *Nye* v. *Davis* before him, was wrong in supposing that he was bound by that case. *Nye* v. *Davis* was, in his lordship's view, distinguishable, and the appeal must be allowed.

SHEARMAN, J., delivered judgment to the same effect.—COUNSEL: *H. G. Robertson* for the appellant; *F. J. Tucker* for the respondent. SOLICITORS: *F. Stanley Culver; Gibson & Weldon* for *E. F. Watts*, Portsmouth.

[Reported by J. L. DENISON, Barrister-at-Law.]

DAVIS *v.* COMMISSIONERS OF INLAND REVENUE.

Sankey, J. 26th and 27th July.

REVENUE—INCOME TAX—MARRIED MAN—PERSONAL ALLOWANCE—SUPER-TAX—DEDUCTIONS—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), ss. 4, 5—FINANCE ACT, 1920 (10 & 11 Geo. 5, c. 18), ss. 16, 17, 18 (1).

The personal allowance of £225, *allowed to a married man under s.* 18 *of the Finance Act,* 1920, *as a deduction in respect of income tax is not also allowable as a deduction in respect of his assessment to super-tax.*

Case stated by the Special Commissioners of Income Tax. At a meeting of the Special Commissioners of Income Tax, held at York House, Kingsway, London, on 14th January, 1922, the appellant, Mr. S. K. Davis, appealed against an assessment of £6,001 made on him to super-tax for the year ending 5th April, 1922. The assessment was made in respect of (*inter alia*) a pension of £900, the tax payable thereon amounting to £270, reckoned at 6s. in the £1. The appellant subsequently claimed that for the year ending 5th April, 1921, he was entitled to the allowances and deductions specified in the Finance Act, 1920, ss. 16, 17 and 18. This claim was given effect to by reducing the duty payable in respect of the said income tax assessment by £128 5s. to £141 15s. The personal allowance of £225 was also granted, as the appellant was, at all material times, a married man, having his wife living with him. The appellant, at the hearing before the Commissioners, contended that the allowance, granted by s. 17 and s. 18 (1) of the Finance Act, 1920, for income tax, ought also to be allowed for super-tax, and that super-tax, being an additional income tax, was not chargeable in respect of a larger income than that liable to income tax, and that the income tax ought to be deducted in calculating the amount of income liable to super-tax, or, alternatively, that the income tax payable under the Income Tax Act, 1918, Schedule E, r. 1, in respect of the pension income must be deducted in calculating the amount of pension income liable to super-tax. On behalf of the Commissioners of Inland Revenue it was contended that in computing the total income for super-tax purposes the said sum of £225, allowed for income tax purposes, was not an allowable deduction, and that the assessment of £6,001 was correct. The Commissioners upheld the contentions of the Commissioners of Inland Revenue and, at the appellant's request, stated a case.

SANKEY, J., in delivering judgment, said that the appellant had contended that, as the personal allowance was allowed to him for purposes of income tax, it ought also to be allowed to him for purposes of super-tax. The Commissioners had decided against him, and that was the point for decision. The word "income" was used in a number of different ways in the numerous statutes relating to these matters. It was sometimes income pure and simple, sometimes total income, and in the Finance Act, 1920, there were references to "taxable income" and "assessable income." Had Parliament said that super-tax, which was an additional income tax, should be calculated on the same basis as income tax? The charging section charged super-tax on the total income. The Commissioners were, in his lordship's view, right in their decision that the allowance could not be made. The appellant also failed on his claim that the income tax payable in respect of the pension income should be deducted. The appeal must, therefore, be dismissed.—COUNSEL: *Latter*, K.C., and *Cyril King* for the appellant; *Sir Ernest Pollock*, K.C. (Attorney-General), *Sir Leslie Scott*, K.C. (Solicitor-General) and *R. Hills* for the respondents. SOLICITORS: *Godden, Holme and Ward; Solicitor of Inland Revenue.*

[Reported by J. L. DENISON, Barrister-at-Law.]

DOUGLAS *v.* ASSOCIATED NEWSPAPERS LIMITED.

Bray, J. 25th April.

PRACTICE—REVIEW OF TAXATION—R.S.C. ORD. 65, r. 27 (47).

A member of the Outer Bar settled pleadings and led at trial. Another member of the Outer Bar was briefed to attend trial as his junior. On party and party taxation the Taxing Master disallowed the fees paid to the second counsel on the ground that the junior who settled the pleadings could not lead, but could be led by a senior either of the Outer or Inner Bar.

Held, that junior counsel who settled pleadings can lead another junior counsel and fees of both counsel should be allowed.

Notice of objections, dated 21st March, 1922, was brought in to the disallowance of junior counsel's fees on party and party taxation. The Taxing Master on the taxation stated: "If the circumstances warrant two counsel, whether or not they are juniors—barristers behind the Bar—I will allow leaders, and if a junior counsel is employed as a leader I will allow his fee; but if the gentleman who settled the pleadings merely says he wants the assistance of another counsel in the conduct of the case, then that is not an expense which can be thrown upon the costs of the unsuccessful party." The solicitor urged that if a leader had been employed, this was a charge which could properly be chargeable in the bill and the Master replied: "Yes, if he was leading somebody, but under circumstances which would render the employment of a leader an expense which could justly be thrown upon the unsuccessful party. I disallow the plaintiff the costs of second counsel." The Taxing Master answered the objection as follows: "In my opinion the employment of the second junior in this case was not necessary for the attainment of justice. Counsel had settled the pleadings, he felt himself capable of conducting the case in court and he was successful. Had he desired someone else to lead him and be responsible for the conduct of the case in court, such employment would have been reasonable, but that was not what happened."

On the Summons to Review coming before Mr. Justice Bray, Mr. A. S. Comyns Carr referred to Ord. 65, r. 27 (48) and also referred to the Master's answer: "If he is the junior counsel who has settled the pleadings I cannot allow him to have a junior."

Mr. CARR (for plaintiffs): I drew the pleadings, but the Master will not allow a second junior from the Outer Bar if he has not drawn the pleadings. The Master, however, considered this case was one in which a leader would have been allowed on taxation.

BRAY, J., to Mr. J. B. Melville (for the defendants): What do you say, Mr. Melville.

Mr. MELVILLE: Although it is distasteful to object to junior counsel's fees, it is a matter entirely for the discretion of the Taxing Master.

BRAY, J.: Yes, if it were purely discretion, but the Master has given his reasons.

Mr. MELVILLE referred to sub-rule 29 of Ord. 65, r. 27, and the Master's answer that he exercised his discretion, as he did not under the circumstances consider it was necessary or proper for the attainment of justice that counsel junior to Mr. Carr should be employed.

ERAY, J.: Unfortunately he has given his reason, which is a bad one. He forgot the position of Mr. Carr. He is a super-junior. Further he has gone wrong on the question of principle in not allowing a junior to Mr. Carr. I should like you to take this case up to the Court of Appeal. It certainly is novel to my mind and I have decided that it is fit to have a second counsel in this case and that the fees of the second counsel—although junior to the junior counsel who led him—can be allowed on a party and party taxation. Leave to appeal.—COUNSEL: *A. S. Comyns Carr; J. B. Melville.* SOLICITORS: *Carter & Bell; Lewis & Lewis.*

[From Notes supplied by Solicitors.]

Court of Criminal Appeal.

REX *v.* DUNN AND O'SULLIVAN. 3rd August.

CRIMINAL LAW — MURDER — PROCEDURE — EVIDENCE — STATEMENT BY ACCUSED PERSON FROM THE DOCK—IRRELEVANT AND IMPROPER STATEMENT—POWERS AND DUTIES OF JUDGE—EXCLUSION.

An accused person has no right to put in statements which are irrelevant and which, in the opinion of the judge trying the case, are improper and manifestly inconsistent with the law. The learned judge is not only entitled, but it is his duty to prevent the introduction of merely irrelevant and improper statements, where it is sought to put such statements in, not with a view to obtaining an acquittal, but with other motives, such as the propagation of improper political views.

It is for the judge, and not the accused person, to decide the limits of what is improper and grotesque in the statements sought to be put in.

Appeals from convictions. The appellants were convicted before Shearman, J., at the Central Criminal Court of the wilful murder of Field-Marshall Sir Henry Wilson, and were sentenced to death. At the trial, at the close of the evidence for the prosecution, the appellants handed in a written statement, and requested that it should be read to the jury as the appellants' statement from the dock. The learned judge, after reading the statement, said that if the statement had a bearing on the defence, on the question of guilt or otherwise, he would permit him the indulgence. He added that he would allow the appellants to make any statement relevant to the question at issue. The learned judge then granted an adjournment to enable the appellants and their counsel to consider the position. When the proceedings were resumed, the appellants' counsel informed the judge that the appellants had withdrawn their instructions and that they (counsel) no longer represented the accused. The appellant Dunn thereupon made a statement to the jury, and the appellant O'Sullivan said: "What I had to say was contained in that document that you have, and as you will not allow the jury to hear that I have nothing further to say." The appellants appealed against their conviction on the grounds that the judge was wrong in requiring that the statement should be submitted to him, and that he was wrong in refusing to allow the statement to be read after it had been submitted to him, and that in the absence of the statement there was no material before the jury on which they could consider the motives and state of mind of the appellants, as well as the provocation, with a view to a recommendation to mercy. It was contended on their behalf that they were entitled to make any statement with regard to the circumstances in which the murder was committed, and that the accused were entitled to decide what was necessary for his defence, and if the statement is sufficiently connected with the crime the accused are entitled to have it read to the jury, not to secure an acquittal, but with a view to a recommendation of mercy.

Lord HEWART, C.J., delivered the judgment of the court (Lord Hewart, C.J., Darling and Branson, JJ.). His lordship, having referred to the above facts, said: It is quite clear, therefore, that what was contended for at the trial and in this appeal is that an accused person has some right to put in a perfectly irrelevant statement, and one which is not only irrelevant, but one which contains matter which is manifestly inconsistent with the law. In this case the learned judge thought, and he was right in so thinking, that what was being attempted at the trial of the appellants was to make the trial a platform for the propagation through the Press of the doctrine that a man is justified in killing another against whom he has some sort of a grievance. That doctrine is subversive of the very foundations of justice, and the learned judge prevented an attempted justification of killing entirely outside any of the grounds recognised by law as giving the right to kill. The course which the learned judge took in preserving the decency of the trial of these appellants was a course which the learned judge is sometimes bound to take to prevent the introduction of matter which is not merely irrelevant, but improper and grotesque. It is impossible to accept the contention that it is for the accused to decide the limits of grotesque statements. That is for the judge to decide. The judge is not only entitled to exclude such matter as was sought to be put in in this case, but it is his duty to do so. The appeals must be dismissed.—COUNSEL: *Artemus Jones*, K.C., and *Jeremiah MacVeagh* for the appellants; *Sir Ernest Pollock*, A.-G., *H. M. Giveen and Travers Humphreys* for the Crown. SOLICITORS: *J. H. MacDonell* for the appellants; *The Director of Public Prosecutions* for the Crown.

[Reported by T. W. MORGAN, Barrister-at-Law.]

New Orders, &c.

Notice.

COLONIAL STOCK ACT, 1900 (63 and 64 Vict., c. 62).

ADDITION TO LIST OF STOCKS UNDER SECTION 2.

Pursuant to Section 2 of the Colonial Stock Act, 1900, the Lords Commissioners of His Majesty's Treasury hereby give notice that the provisions of the Act have been complied with in respect of the undermentioned Stocks registered or inscribed in the United Kingdom:—

Victoria Government 5 per cent. Conversion Loan, 1935-45.

The restrictions mentioned in Section 2, Sub-section (2), of the Trustee Act, 1893, apply to the above Stocks. (See Colonial Stock Act, 1900, Section 2.)

Treasury Orders.

RETURNING OFFICERS' EXPENSES.

The *Gazette* of 24th Oct. contains a Treasury Order (Statutory Rules and Orders, 1922, No. 1151), dated 23rd October, 1922, under Section 29 of the Representation of the People Act, 1918 (7 & 8 Geo. 5, c. 64), prescribing Scale of Maximum Charges of Returning Officers at Parliamentary Elections in England and Wales.

GENERAL LICENCE, DATED 13TH OCTOBER, 1922, GRANTED BY THE TREASURY UNDER SECTION 2 OF THE GOLD AND SILVER (EXPORT CONTROL, ETC.), ACT, 1920 (10 & 11 GEO. 5, C. 70), FOR THE MELTING DOWN OF SILVER COIN OTHER THAN COIN CURRENT IN THE UNITED KINGDOM.

The Lords Commissioners of His Majesty's Treasury, in exercise of the power vested in Them by Section 2 of the Gold and Silver (Export Control, etc.), Act, 1920, hereby grant a general licence authorising all persons, notwithstanding anything in the said section, to melt down silver coin other than coin current for the time being in the United Kingdom.

Dated this thirteenth day of October, 1922.

James Parker,
John Gilmour,
Two of the Lords Commissioners of His Majesty's Treasury.

Unemployment Grants Committee.

Under the Government proposals for the relief of unemployment, involving financial aid to local authorities starting works of public utility, which were launched in the autumn of 1921, Lord St. Davids' Committee has approved over 2,000 schemes of a total value of more than £18,000,000. The Government assistance for these works took the form of grant of a proportion of the interest and sinking fund on loans raised to meet the expenditure.

Under the earlier scheme of assistance they have also made grants of a total amount of £2,500,000 on the basis of 60 per cent. of the wages bill, in respect of works costing approximately £9,000,000.

The volume of unemployment provided under these schemes amounted to over 1,000,000 men-months.

In order to deal with further unemployment this autumn and winter, the Government addressed a circular letter to local authorities on the 1st June, inviting them to give some indication of what further works they would be ready, if necessary, to put in hand for the relief of unemployment.

The replies received indicated that, if the situation necessitated it, further schemes to the value of over £18,000,000 could be started. Invitations were accordingly issued in August to local authorities in all districts where unemployment was heavy, to submit definite proposals for the purpose.

Already over 1,000 schemes to the value of nearly £8,000,000 have been received and others are coming in daily.

Of these, Lord St. Davids' Committee has approved 370 schemes to the value of £2,300,000. These are generally distributed throughout the country and include such works as road-making and road-repairing, sewerage and sewage disposal, water undertaking, tramways, electricity undertakings, public parks and recreation grounds, baths and public institutions, etc.

Unemployment Grants Committee,
23, Buckingham Gate, S.W.1.
23rd October, 1922.

Board of Trade Order.

SAFEGUARDING OF INDUSTRIES ACT.

The Board of Trade announces that the Referee, after hearing a complaint that acid gallic had been improperly excluded from the lists of articles chargeable with duty under Part I. of the Safeguarding of Industries Act, has given judgment upholding the complaint, and accordingly the lists issued by the Board are amended so as to include the item "acid gallic" as from 21st October.

The Rent Restriction Committee.

INTERIM REPORT.

The Rt. Hon. Sir Alfred Mond, Bart., M.P.

Sir,

On the 25th July, 1922, we were appointed by yourself and the Right Honourable Robert Munro, K.C., M.P., to be a Committee with the following terms of reference :—

"To consider the operation of the Increase of Rent and Mortgage "Interest &c. (Restrictions) Act and to advise what steps should be "taken to continue or amend that Act."

We were also requested to furnish, if possible, an interim report on the general question of the continuance or discontinuance of the main principles of the present Act in time for submission to Parliament during the Autumn Session.

We held our first meeting on the 2nd August at which was discussed among other things what steps could best be taken, in view of the holiday season impending and the consequent difficulties in arranging for sittings and for hearing evidence, to prosecute such inquiries as would facilitate the submission of an interim report.

It was decided to send out to a selected list of associations and bodies which might be expected to have special knowledge of the questions at issue, a carefully devised Questionnaire form. This Questionnaire form consisted of 19 questions covering all the main points of difficulty and controversy which the correspondence received by the Ministry of Health had already shewn to exist. The associations and bodies to whom it was sent were asked to treat these questions as the headings under which to summarise the evidence they wished to submit, and they were further asked to return their answers together with any statistical information in their possession by the beginning of September. In practically every case the Committee has received a reply to this request and in most cases the reply takes the form of an elaborate statement of the experience of the body in question, and of the reforms suggested to meet the difficulties which have arisen.

We have received similar elaborate replies from other Associations not directly invited by the Committee to furnish these statements.

We are at the moment in possession of some 76 replies to this Questionnaire form dealing at length with practically every aspect of the problem from all points of view.

The replies received from all sources may be summarised from the point of view of the Association making the reply as follows :—

13 Associations of Property Owners.
9 Associations of Tenants.
4 Trades & Labour Councils.
8 Legal Associations.
4 Technical Associations (Surveyors, Estate Agents' Institutes, etc.)
2 Government Departments.
1 Housing & Town Planning Association.
11 Local Authorities and similar bodies.
11 Trade Associations (including Building Societies).
12 Individuals or Firms (mainly Solicitors).
1 Citizens' Association.

A careful and detailed summary of the bulk of these 76 replies has been in the possession of all members for some time.

We are also in possession of the views of the majority of the County Court Judges on several of the more contentious points of the Act, these views having been elicited by a circular sent out by our colleague His Honour Judge Sir Edward Bray.

In addition to the above-mentioned sources of information, we have received in answer to the published request of the Committee about 3,100 letters from various sources, including in many cases elaborate statements of experience by Estate Agents, Solicitors, Private Builders, Tenants' Associations and individual Tenants or Property Owners.

A full and detailed summary of the first 2,500 of these letters has been in the hands of the Committee for some weeks.

You will, therefore, see that when we resumed our sittings on the 16th October we were in possession of a mass of evidence in itself practically sufficient to enable us to arrive at definite conclusions on some of the main points at issue. We have, however, supplemented our information by oral examination of witnesses representing the views of landlords and of tenants. We have heard evidence from the following bodies :—

(1) The National Federation of Property Owners and Ratepayers, represented by Mr. E. J. Churchman, J.P., Mr. A. J. Williams, Alderman Cheverton-Brown.

(2) The Property Owners Protection Association, represented by Mr. Edwin Evans, J.P., L.C.C.

(3) The National Federation of Property Owners and Factors of Scotland, represented by Mr. William Murray Crone, F.S.I., Mr. William Forrest (Lord Dean of the Guild of Edinburgh), Mr. Stewart (the Secretary), Mr. Burns Petrie.

(4) The War Rents League, represented by Mr. Dan Rider.

(5) A Conference of Owners of Industrial Dwellings, represented by Mr. Arthur Moore.

(6) The Association of Women House Property Managers, represented by The Lady Selborne, and Mrs. Vernon Ley.

(7) The Scottish Labour Housing Association, represented by Mr. Joseph Sullivan, J.P.

In view of the widespread anxiety regarding the future of the Act, we have thought it best not to wait until we might be in a position to furnish a more detailed report, but to inform you at once of certain definite conclusions at which we have arrived.

We are of opinion that protection of tenants against eviction and unreasonable increases of rent, as afforded by the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, should not be withdrawn when that Act expires in June, 1923.

We have, however, formed the opinion that in future legislation regard must be had to certain matters in the light of experience of the present Act. Among these are the questions of the further period of protection, of sub-tenancies, of the eviction of proved undesirable tenants, and of the owners of one house required *bonâ fide* for the owner's occupation.

Upon these and other matters time has not afforded us the opportunity of making precise recommendations.

Some of our members desire for the present to reserve their judgment upon the point whether or not the upper rental limits of the houses to which the present Act applies should remain unaltered.

We desire to express high appreciation of the value of the services rendered by our Secretary, Mr. H. H. George, M.C. Upon him has fallen the chief burden of the mass of our correspondence, and of the compilation of the elaborate summaries of evidence. The efficiency with which he has carried out these onerous duties has greatly facilitated our task.

We are, Sir,
Your obedient Servants,

(Signed) HENRY NORMAN (Chairman). EDWARD BRAY.
ALEXANDER SHAW. THEODORE CHAMBERS.
D. WATTS MORGAN. THOMAS WHITE.
HARRY BARNES. P. B. MOODIE.
AUBREY V. SYMONDS. DUNCAN M. GRAHAM.
H. H. GEORGE (Secretary).

We regret that we are unable to sign this report. While the Committee has had before it a great volume of written evidence, we do not feel that such evidence can replace the oral examination of witnesses, especially in view of its very conflicting character. To this the Committee has not in our view been able to devote sufficient time to afford a basis for a decision on such an important matter.

We believe that the widespread anxiety regarding the future of the Act would have made an interim report desirable not later than the middle of November, but we do not think that the action of a Committee like ours should be influenced by other considerations, however proper in themselves, and we therefore feel obliged to reserve our opinion pending the further proceedings of the Committee.

(Sgd.) EUSTACE PERCY.
G. C. H. WHELER.

I regret that I cannot concur in the recommendation of the Committee that the Act should not be allowed to lapse on its date of expiry in 1923. In my opinion the Act should be allowed to lapse. But if the protection afforded by the Act is to be continued then in my opinion material amendments must be made upon the present Act.

(Sgd.) A. S. D. THOMSON.

Lord Haldane on a Ministry of Justice.

The first of two Rhodes Lectures at the University of London, says the *Morning Post*, was given on Monday evening by Viscount Haldane on the subject of "A Ministry of Justice."

Viscount Chelmsford, who presided, paid a tribute to the memory of Cecil Rhodes.

Viscount Haldane said that originally the chief domestic function of the Council of the Sovereign was the administration of justice, and this was still a great function of Parliament, as evidenced by appeals to the House of Lords and contested Private Bills, but judicial duties had become divided and delegated, and the need for an adequate Ministry of Justice was becoming apparent. Not only had the ordinary courts become sharply divided from Parliament, but a good deal of the business of seeing right done between man and man had been entrusted by Parliament to Commissions and even administrative Departments not primarily concerned with justice.

The duties of the Lord Chancellor had grown beyond the power of one man, however energetic and able he might be, adequately to transact. He presided over the Supreme Court of Appeal for Great Britain and Ireland in the House of Lords. Part of his time was devoted to presiding over the Judicial Committee of the Privy Council dealing with the Possessions of the Crown, including India. Before the war the Cabinet, of which the Lord Chancellor was a member, met only once a week, but now the meetings of the Cabinet or its Committees were almost daily. During the session he occupied the Woolsack as Speaker of the House of Lords. He was responsible for the adequate organisation of the Court of Appeal.

Moreover, the Lord Chancellor had the duty of selecting for appointment Judges of the High Courts and the County Courts. He organised nearly the whole of the staffs of those Courts, and made rules for the conduct of

their work; advised the Government as to the application of a variety of rules under statutory powers; superintended the Land Registry and the offices of the Public Trustee; and appointed the justices of the peace. The result was that, notwithstanding the great energy and industry of the recent occupant of the Woolsack, it was absolutely impossible for him to give the time required by his various duties. The late Lord Herschell died from overwork, and when he (Lord Haldane) left office it was with the sense that had it continued he would probably not have lived much longer.

The growth in importance of the House of Commons had led to the insistence of the existence of a second Minister for other phases of justice in the person of the Home Secretary. He was responsible for the observance of the statutes established by Parliament regarding the factories, workshops, Truck Acts, and other industrial conditions; for administration under the Aliens Act; for matters arising out of the licensing laws; for the prerogative of mercy, extradition, prisons and prisoners, the police, Children's Courts, vivisection, and a multitude of duties in regard to crime and the maintenance of public order and safety.

The sketch he had given of the work of these two Departments was necessarily incomplete, but it was sufficient to show the character of its increase.

Viscount Haldane's second lecture will be delivered on Monday next.

Motor Speed Limit.

At the Kingston County Bench on 19th October, says *The Times*, the Chairman (Mr. W. Negus) said his colleagues wished him to say that there was quite an erroneous impression abroad that the speed limit for motorists had been abolished. It had not been abolished in any way, but its exercise had not been so strictly enforced as formerly. He understood it was now going to be dealt with much more strictly. Therefore, the sooner those motorists who went rushing all over the country at any speed they chose realized this fact, the better it would be for them, and the less there would be for that court to do. The number of accidents through motorists driving at an excessive speed in Surrey was terrible.

Mr. Green, who was present to represent the Automobile Association, said the observations of the Chairman were correct, but the speed limit, although still enforced in London parks, was, he believed, enforced in only one other part of England. Consequently motorists were deceived into the belief that the speed limit was no longer enforced. Until very recently the speed limit was not enforced in the jurisdiction of that court, and motorists had come to the conclusion that provided they did not drive to the public danger they were quite justified in going at any reasonable speed, such as thirty miles an hour.

Mr. Negus said that in the cases dealt with that morning the speed had been over thirty miles an hour, so that the police were apparently giving motorists the benefit up to thirty miles an hour before issuing summonses.

Sterilizing the Unfit.

Before Mr. Justice Roche, at the Central Criminal Court, on 13th October, says *The Times*, Charles Edmund Seymour, 27, tailor, pleaded guilty to wounding Mrs. Adeline Bles in Hyde Park with intent to do grievous bodily harm. Mr. Eustace Fulton prosecued; Mr. A. B. Lucy defended.

Mr. Fulton said that on 18th September Mrs. Bles was walking across Hyde Park in the afternoon when suddenly the prisoner, who was a stranger, attacked her with a knife, causing a wound, and also struck her with his fists. A police officer pursued and overtook the prisoner, who turned on him with the knife and inflicted three wounds. Mrs. Bles was carrying a bag containing £4, and whether the bag was taken by the prisoner or lost in the course of the struggle was not quite clear.

Detective-Inspector Baker said the prisoner, who had been previously convicted, suffered from epilepsy, and had been in an epileptic hospital on and off for some years. He was a married man, living apart from his wife. The witness added that the prisoner had infected his wife with a disease.

Mr. Justice Roche remarked that some time it might be a part of the English law to sterilize people with such tendencies as the prisoner, and the sooner English doctors studied the question the better and the sooner we were likely to have a different type of people to deal with.

In reply to Mr. Lucy, Dr. East, medical officer of Brixton Prison, said he had formed the opinion that the prisoner was undoubtedly a genuine epileptic. Epilepsy would make him very impulsive and lose control of himself.

Mr. Justice Roche: You don't connect the offence with epilepsy?—I don't think there was any epileptic mania or epileptic automatism.

Mr. Lucy said the prisoner had been incapacitated from his youth by fits. It was a pity he could not stay in hospital, as he was a danger to society.

Mr. Justice Roche, in passing sentence, said he pitied the prisoner because he pitied epileptics and people with infirmities of that sort. There was no such epilepsy in his case, however, as entitled him to be excused from doing what he did. He must in the interests of the public be shut up for a long time where he could not do any harm. While in prison he would be treated in accordance with the state of health he was in. He sentenced the prisoner to three years' penal servitude.

Turning to the jury, Mr. Justice Roche said: In my judgment, the medical profession of this country would be performing a public service if they studied earnestly the question of the feasibility of sterilizing both men and women with tendencies such as the man before me has. To allow them to produce is breeding from the worst of all stock, and propagating disease and crime. I am expressing no opinion whether it is feasible or whether Parliament should pass such a measure. That depends on the examination of skilled persons as to the feasibility and risks attending.

Reckless Motoring.

At Nottingham County Police Court, recently, says *The Times*, George Stubley, 27, of Ollerton, Nottinghamshire, an ex-officer in the Guards, was fined the maximum amount of £20 for driving a motor-car dangerously. His licence was also indorsed and suspended for the remainder of the term it has to run, and he was disqualified from holding a licence for one year after its expiration.

The police stated before sentence was passed that in June last year the defendant was sentenced at the Assizes to eight months' imprisonment in the second division for the manslaughter of a Nottingham policeman whom he ran down with a motor-cycle and killed.

In the present case it was said in evidence that on 7th September, Stubley drove his car along the Rufford-road at a speed estimated by other motorists on the road at from forty to fifty miles an hour. Travelling in the same direction were two women driving in a governess car. The defendant, veering from one side of the road to the other, crashed into them from the rear, smashing their car to pieces and piling the wreckage on top of the pony. One of the women was flung ten yards into a ditch, and was severely injured.

The defendant admitted a maximum speed of from thirty-five to thirty-seven miles an hour, but pleaded that the accident was due to his car skidding on a freshly tarred road.

In the Bankruptcy Court, on the 24th inst., Mr. Registrar Hope referred to the death, on Sunday last, of Mr. W. P. Bowyer, Senior Official Receiver in Bankruptcy. He said that his Honour had done his duties in an able manner and he had always shown that courtesy between man and man which was due to those who were subjected to the process of bankruptcy. During the war Mr. Bowyer also rendered valuable assistance in dealing with matters arising out of the liquidation of enemy firms. Mr. E. W. Hansell, on behalf of the Bar, associated himself with the Registrar's remarks.

Legal News.

Information Required.

TO SOLICITORS AND OTHERS. Will any person having in his possession a will or draft will of **Jacques Victor Hendrickx**, Silk Merchant, late of 8 Heddon Street, Regent Street, who died on 20th September last, please communicate with Messrs. Christopher & Son, 9 Clifford Street, W.1.

Dissolutions.

WILFRED LESLIE WALDEGRAVE BRODIE and WALTER HENRY BONHAM-CARTER, Solicitors (Thorold Brodie & Bonham-Carter), 4 Regent-street, London. 31st August, 1922. [*Gazette*, 24th October.

HAROLD GEORGE ROBERT SOAMES and BENJAMIN WILLIAM VIGO, Solicitors (Soames & Vigo), Union Bank Buildings, Ely-place, E.C. 9th April, 1921. [*Gazette*, 24th October.

Appointments.

Sir HAROLD SMITH, M.P., has been appointed to be Recorder of Blackburn in the place of Mr. Miles W. Mattinson, K.C., who has resigned. Sir Harold Smith, who is a brother of Lord Birkenhead, is a Bencher of Gray's Inn, and has represented Warrington in Parliament since 1910.

General.

The Treasury Account of receipts and payments in respect of the Land Registry for the year ended 3rd March, 1922, issued last night, shows a net decrease of £37,230 19s. 10d. on the receipt side, and a net decrease of £4,538 17s. in expenditure.

Mr. Justice Eve, speaking on the 24th inst. at a meeting of the Inns of Court Mission, said he was disclosing no secret when he stated that he was approaching an age when it would be his duty to consider whether he ought not to make way for those who had more youthful and vigorous minds. The Master of the Rolls presided at the meeting, which was held to celebrate the twenty-fifth anniversary of the founding of the mission.

At Chertsey Police Court, on the 19th inst., Paul Dudoid, a Frenchman, living in London, was fined £5 for having no silencer or identification plate on his motor-car at Weybridge. Counsel for the defendant said they were both removed at Brooklands and were forgotten when the car left the track. The Chairman said that the practice of driving racing cars through Weybridge without silencers caused great inconvenience and would have to be stopped.

The following is given by *The Times* from its issue of 26th October, 1822:—It would appear from the following extract from the *Bristol Gazette*, that the Admiralty and Navy Boards have transferred part of their duties to the Attorney and Solicitor-General; and we should not be surprised, as they appear to have some knowledge of nautical affairs, that in the event of a change in administration, the Attorney-General would be appointed to the head of the Admiralty, and the Solicitor-General to be Secretary:—"His Majesty's Attorney and Solicitor-General have given as their opinion, that the distinction between carvel-built cutters and sloops is in the hulls, and not in the rigging."

The correspondent of *The Times* at Toronto, in a message of 12th October, says: Living to be over one hundred years old, Mrs. James Johnston, of Montreal, has outlived everyone mentioned in her will. The will provided that warehouses and other property in Montreal should be sold to provide legacies of twenty thousand dollars each for her son James and her daughter Elizabeth. These are dead, as also is her husband, to whom she left the residue of her estate. One clause in the will provided that the husband should "procure and furnish my son and daughter with the requisite and proper apparel, board and lodging, and all other necessaries of life until their respective marriages." The first executors and the alternative executors are all dead, as, too, are the notaries who drew the will.

Gerard Lee Bevan, the financier, made his fifteenth and last appearance at the Guildhall on the 24th inst., when the Magistrate (Sir George Truscott) committed him for trial at the next session of the Central Criminal Court. The charges on which he was committed covered four typewritten pages, and included the issuing of false balance-sheets for 1919 to 1921 of the City Equitable Fire Company; publishing a prospectus containing false statements in connection with the City Equitable Associated Company; fraudulent conversion while a director of the Greater Britain and City & London Insurance Companies and the City Equitable Associated Company; and seven charges of obtaining money by false pretences. When the Magistrate asked Bevan if he wished to say anything in answer to them Bevan replied: I only wish to say I have a complete answer to all the charges that have been brought against me, and I will reserve it for judge and jury at the proper moment.

The Treasury has issued an account (No. 76, price 2d.) showing the receipts and expenditure in respect of the High Court of Justice, the Court of Appeal and the Court of Criminal Appeal during the year ended 31st March, 1922. On the receipts side a total is shown of £712,890 9s. 10d., being an increase of £116,683 4s. 7d. as compared with the preceding year. The total includes £47,007 2s. 2d., fees received in the District Registries of the High Court, and £3,634 7s., fees in connection with honours and dignities. The total expenditure was £993,312 13s. 3d., an increase of £43,921 4s. 1d. compared with the total in 1921. Salaries of Judges (including £8,000 the salary of the Lord Chancellor) amounted to £203,627 6s. 4d., while retiring annuities of judges accounted for £45,947 13s. 9d., making together £249,575 0s. 1d., an increase of £40,805 19s. 9d. as compared with 1921.

At Southwark County Court, on 2nd October, says *The Times*, Arthur Martin Lawson, a messenger boy, employed by the Port of London Authority, claimed damages for personal injuries against William A. Burchell, of Tabard-street, Borough. Mr. Martin O'Connor, for the plaintiff, stated that the lad was standing on the pavement in Tanner-street, Bermondsey, when the defendant drove a motor-car so negligently that it knocked him down and bruised and cut his leg. The car was driven at an excessive speed and on the wrong side of the road. The driver was afterwards fined for driving to the common danger. Judge Granger, in giving judgment for the plaintiff for £12 and costs, expressed the opinion that persons fined for driving to the common danger should never again be allowed to hold a driving licence. It was scandalous that licences should be suspended for a few months and then renewed, turning men on to the streets to injure or kill people.

Court Papers.

Supreme Court of Judicature.

CROWN OFFICE,

HOUSE OF LORDS,
18*th October*, 1922.

Days and places fixed for holding the Autumn Assizes, 1922:

WESTERN CIRCUIT (continued).

Mr. Justice Horridge.

Tuesday, Oct. 31st, at Exeter.
Monday, Nov. 6th, at Bristol.
Saturday, Nov. 11th, at Winchester.

NORTH-EASTERN CIRCUIT.

Mr. Justice Greer.
Mr. Justice Swift.

Wednesday, Nov. 1st, at Newcastle.
Thursday, Nov. 9th, at Durham.
Thursday, Nov. 16th, at York.
Wednesday, Nov. 22nd, at Leeds.

SOUTH-EASTERN CIRCUIT.

(Second portion).
Mr. Justice Bray.

Saturday, Nov 18th, at Hertford.
Friday, Nov. 24th, at Maidstone.
Saturday, Dec. 2nd, at Guildford.
Thursday, Dec. 7th, at Lewes.

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
Monday Oct. 30	Mr. More	Mr. Hicks Beach	Mr. Synge	Mr. Garrett
Tuesday 31	Jolly	Bloxam	Garrett	Synge
Wednesday Nov. 1	Garrett	More	Synge	Garrett
Thursday 2	Synge	Jolly	Garrett	Synge
Friday 3	Hicks Beach	Garrett	Synge	Garrett
Saturday 4	Bloxam	Synge	Garrett	Synge

Date.	Mr. Justice Sargant.	Mr. Justice Russell.	Mr. Justice Astbury.	Mr. Justice P. O. Lawrence.
Monday Oct. 30	Mr. Hicks Beach	Mr. Bloxam	Mr. More	Mr. Jolly
Tuesday 31	Bloxam	Hicks Beach	Jolly	More
Wednesday Nov. 1	Hicks Beach	Bloxam	More	Jolly
Thursday 2	Bloxam	Hicks Beach	Jolly	More
Friday 3	Hicks Beach	Bloxam	More	Jolly
Saturday 4	Bloxam	Hicks Beach	Jolly	More

Winding-up Notices.

JOINT STOCK COMPANIES.
LIMITED IN CHANCERY.
CREDITORS MUST SEND IN THEIR CLAIMS TO THE LIQUIDATOR AS NAMED ON OR BEFORE THE DATE MENTIONED.

London Gazette.—TUESDAY, October 17.

MASTA STEEL WORKS CO. LTD. Nov. 17. J. W. Best, of St. Peter's Close, Sheffield.
GROSVENORS LTD. Nov. 4. Joseph Stephenson.
THE WHEAL ARTHUR SYNDICATE LTD. Nov. 24. L. R. Stevens, F.C.A., 5, Guildhall-chambers, 31-34, Basinghall-st., E.C.2.

London Gazette.—FRIDAY, October 20.

KINGSTON & THREAPLETON LTD. Nov. 6. Herbert W. Freshwater, 39 Broad-st., Bristol.
PALACE SHIPPING CO. LTD. Dec. 4. Inman T. Telford and Arthur H. Chalmers.

Resolutions for Winding-up Voluntarily.

London Gazette.—TUESDAY, October 17.

J. Miller & Sons Ltd.
Knights Motor & Engineering Co. Ltd.
Bond and Share Investment Trust Ltd.
Harris & Co. (Leeds) Ltd.
F. E. Parton & Co. Ltd.
New British Transvaal Mines Ltd.
Stelabrass Ltd.
Burnleys Ltd.
Appleton Motors Ltd.
H. L. Hall Ltd.
Hampshire Bottle Works Ltd.
The College of Estate Management.
T. J. Tatem & Co. (Novelties) Ltd.
J. L. Fell & Co. Ltd.
Mouldings Ltd.
Erna et Cie Ltd.
"Worker" Socialist Newspaper Society Ltd.

London Gazette.—FRIDAY, October 20.

Wainwright & Strother Ltd.
Ashley & King (A Dept.) Co. Ltd.
Hermitage Steel & Engineering Co. Ltd.
Roworth & Co. Ltd.
James Boyd & Kirby Ltd.
Mark J. Whittaker Ltd.
W. H. Jubb Ltd.
Kuala Pahi Rubber Estate Ltd.
Mersey Casement Manufacturing Co. Ltd.
Carburna Ltd.
Foleshill Trades and Labour Institute Ltd.
724th Starr Bowkett Building Society.
Fram Manufacturing Co. Ltd.
Brooks & Co. Ltd.
The Metropolitan Guarantee Society Ltd.
The Marble Hill Syndicate Ltd.
Winsers (Tunbridge Wells) Ltd.
Blakeborough & Rhodes Ltd.
The Egyptian Engineering Co. Ltd.
Huddersfield Clubs Ltd.

Bankruptcy Notices.

RECEIVING ORDERS.

London Gazette.—FRIDAY, October 20.

BAKEWELL, JOHN, Barton-on-Humber, Electric Engineer. Great Grimsby. Pet. Oct. 17. Ord. Oct. 17.
BERSTON, COLIN R., Wem, Salop, Draper. Shrewsbury. Pet. Oct. 16. Ord. Oct. 16.
BENNETT, R., Thornton Heath, Builder. Croydon. Pet. Sept. 16. Ord. Oct. 16.
BINMORE, LT.-COMM. HENRY, Stepney. High Court. Pet. April 21. Ord. Oct. 16.
BLOCK, EDWARD, and DEBOY, ROGER, Metal Merchants. High Court. Pet. Sept. 26. Ord. Oct. 17.
BRISTOW, EDWIN, Steyning, Sussex. Brighton. Pet. July 29. Ord. Oct. 17.
BROWNING, DONALD, Market Rasen, Cycle Agent. Lincoln. Pet. Oct. 14. Ord. Oct. 14.
CANNON, STUART, Tunbridge Wells, Mechanical Engineer. Tunbridge Wells. Pet. Oct. 18. Ord. Oct. 18.
CAULEY, DANIEL, Maryport, Cumberland, Coalminer. Cockermouth. Pet. Oct. 14. Ord. Oct. 14.
CHRISTOPHER, HERBERT, Bromley. Croydon. Pet. Sept. 18. Ord. Oct. 16.
CROMPTON, S., Manchester, Blouse and Linen Merchant. Manchester. Pet. Oct. 3. Ord. Oct. 17.
CONYERS, WILLIAM, Leeds, Saddler and Leather Merchant. Leeds. Pet. Oct. 14. Ord. Oct. 14.
COPE, GEORGE, Wolverhampton, Grocer. Wolverhampton. Pet. Oct. 17. Ord. Oct. 17.
CRABTREE, JONATHAN, Harrogate, Shop Assistant. Harrogate. Pet. Oct. 16. Ord. Oct. 16.
DUDNEY, JAMES, Cookabridge, Sussex, Farmer. Brighton. Pet. Sept. 25. Ord. Oct. 17.
DUROW, WILLIAM, Mapperley, Derby, Coal Miner. Derby. Pet. Oct. 16. Ord. Oct. 16.
ELLEN, EDWARD T., West Ealing, Commercial Traveller Brentford. Pet. Oct. 16. Ord. Oct. 16.
FLACK, HENRY R., Hesketh Bank, Lancs, Sheet Metal Worker. Liverpool. Pet. Oct. 18. Ord. Oct. 18.
FRITH, ROSE, Scarborough, Boarding House Keeper. Scarborough. Pet. Oct. 16. Ord. Oct. 16.
GOLDENTHAL, ABRAHAM, Whitechapel, Commercial Traveller. High Court. Pet. Sept. 22. Ord. Oct. 18.
GUBBEN, GEORGE, Cheriton, Kent, Taxi Proprietor. Canterbury. Pet. Oct. 17. Ord. Oct. 17.
GREY, CHARLES, Birstall, Yorks, Confectioner. Dewsbury. Pet. Oct. 17. Ord. Oct. 17.
HARMSTONE, EMILY, Great Grimsby, Draper. Great Grimsby Pet. Oct. 16. Ord. Oct. 16.
HARRIS, ERNEST W., Canterbury, Bootmaker. Canterbury. Pet. Oct. 17. Ord. Oct. 17.
HARRISON, HAROLD MONTAGU, Orchard-st., Pianoforte Dealer. High Court. Pet. Oct. 18. Ord. Oct. 18.
HASLAM, FRED, Bolton, Farmer. Bolton. Pet. Oct. 16. Ord. Oct. 16.
HINCE, LEONARD, Maida Vale. High Court. Pet. July 27. Ord. Oct. 18.
HORTON, WALTER, Waltham, Lincs., Commission Agent. Great Grimsby. Pet. Oct. 18. Ord. Oct. 18.
ILEY, CARRIE, Sturry, Kent, Draper and Outfitter. Canterbury. Pet. Oct. 17. Ord. Oct. 17.
INCE, HERBERT C. Orford, near Warrington, Joiner. Warrington. Pet. Oct. 16. Ord. Oct. 16.
JACKSON, ARTHUR G., Sheffield, Managing Director. Sheffield. Pet. Sept. 26. Ord. Oct. 17.
JACKSON, HERBERT H., Old Hunstanton, Potato and General Farmer. King's Lynn. Pet. Oct. 4. Ord. Oct. 17.
JOLLIFFE, EDWARD H., and WOODS, WILLIAM, South Norwood, Coach Builders. Croydon. Pet. Oct. 16. Ord. Oct. 16.
JONES, WILLIAM R., Bargoed, Butcher. Merthyr Tydfil. Pet. Oct. 18. Ord. Oct. 18.
JONES, JOHN H., Westbury, Salop, Farmer. Shrewsbury. Pet. Oct. 16. Ord. Oct. 16.
LE BAS, DUMARESQ, Harley-st. High Court. Pet. Aug. 23. Ord. Oct. 18.
LOCKWOOD, NELLIE, Huddersfield, Milliner. Huddersfield. Pet. Oct. 16. Ord. Oct. 16.
LOFTS, ARTHUR S., Goodmayes, Essex, Commercial Traveller. Chelmsford. Pet. Oct. 16. Ord. Oct. 16.
MCGRIGOR, SIR JAMES R. D., Bart., and BISS, EDWARD A., Oxford-st., Company Bankers and Army Agents. High Court. Pet. Oct. 18. Ord. Oct. 18.
MORRIS, FRANK, Leigh, Lancs, Motor Engineer. Bolton. Pet. Oct. 4. Ord. Oct. 17.
MUNNINGS, GEORGE T., Jun., Lowestoft, Confectioner and Tobacconist. Great Yarmouth. Pet. Oct. 17. Ord. Oct. 17.
OSWALD, G. A., Cardiff, Manager. High Court. Pet. Aug. 4. Ord. Oct. 18.
PEARSON, JOSEPH, Tipton, Cinema Proprietor. Dudley. Pet. Oct. 16. Ord. Oct. 16.
PHILLIPS, ABRAHAM, Birmingham. Birmingham. Pet. Oct. 16. Ord. Oct. 16.
POLLARD, MARY E., Bristol, Dairy Proprietor. Bristol. Pet. Oct. 17. Ord. Oct. 17.
RAMPLEY, CHARLES, Bungay, Farmer. Great Yarmouth. Pet. Oct. 4. Ord. Oct. 17.
RATCLIFFE, FREDERICK J., Hawarden, Flint, Iron, Steel and Machinery Merchant. Chester. Pet. Sept. 30. Ord. Oct. 16.
ROADLEY, THOMAS, Leicester, Wholesale Fruiterer. Leicester. Pet. Oct. 18. Ord. Oct. 18.
ROBINSON, JOHN, ROBINSON, JAMES, LEARSON, JOHN, ROBINSON, JOHN B., and WEBSTER, WALTER H., Liverpool, Rope Makers. Liverpool. Pet. Sept. 22. Ord. Oct. 16.
ROTHSTEIN, S. & SONS, Cannon Street-rd., E.1. High Court. Pet. Oct. 9. Ord. Oct. 17.
SCRASE, DAVID J., Buxted, Sussex, Farmer. Brighton. Pet. Oct. 16. Ord. Oct. 16.
SMITH, FRANK S., Kingston-upon-Hull, Yeast Dealer. Kingston-upon-Hull. Pet. Oct. 16. Ord. Oct. 16.
SMITHIES, JAMES H., Leeds, Plumber. Leeds. Pet. Oct. 14. Ord. Oct. 14.
SWEET, LEO P., Exmouth, Motor Engineer. Exeter. Pet. Oct. 16. Ord. Oct. 16.
SYMONDS, HENRY, Wimbledon, Electrical Engineer. Kingston. Pet. Sept. 5. Ord. Oct. 16.
VAUGHAN, THOMAS P., Chester, Painter. Chester. Pet. Oct. 17 Ord. Oct. 17.
WARSOPP, ALBERT E., Cardiff, Draper. Cardiff. Pet. Oct. 2. Ord. Oct. 17.
WHITE, WILLIAM J., Southfields, Stationer. Wandsworth. Pet. Oct. 16. Ord. Oct. 16.
WILLIAMS, JOHN, Wem, Salop, Farmer. Shrewsbury. Pet. Oct. 17. Ord. Oct. 17.
Amended Notice substituted for that published in the *London Gazette* of Sept. 5, 1922:—
SEWELL, PERCY H., and LORD, JAMES, Manchester, Yarn Agents. Manchester. Pet. July 14. Ord. Sept. 1.

London Gazette.—TUESDAY, October 24.

ATKIN, WILLIAM, Bridlington, Smallholder. Scarborough Pet. Oct. 21. Ord. Oct. 21.
BARRETT, JOHN, Lees, nr. Keighley, Greengrocer. Bradford. Pet. Oct. 19. Ord. Oct. 19.
BIRCH, JOHN H., Eastville, Lincoln, Farmer. Boston. Pet. Oct. 21. Ord. Oct. 21.
BOLTON, HARRY, Halifax, Commercial Traveller. Halifax. Pet. Oct. 20. Ord. Oct. 20.
BRENNAN, BERNARD, Wigan, Commercial Traveller. Wigan. Pet. Oct. 19. Ord. Oct. 19.
BREWER, GEORGE A., Leeds, Waiter. Leeds. Pet. Oct. 18. Ord. Oct. 18.
COLLINS, HENRY, Birmingham, Engineer. Birmingham. Pet. Oct. 2. Ord. Oct. 20.
COOPER & CO., Bradford, Sack Manufacturers. Bradford. Pet. Sept. 11. Ord. Oct. 19.
COUGHTREY, HENRY, Hemel Hempstead, Dealer. St. Albans. Pet. Oct. 19. Ord. Oct. 19.
CUNNINGHAM, JOHN F., Bayshill, Cheltenham, Hotel Proprietor, Cheltenham. Pet. Oct. 19. Ord. Oct. 19.
DRURY, WILLIAM B., Rawmarsh, nr. Rotherham, Saddler Sheffield. Pet. Oct. 20. Ord. Oct. 20.
ELLIOTT, GEORGE E., Eastbourne, Shipmaster. Eastbourne Pet. Oct. 4. Ord. Oct. 20.
ELLISON, THOMAS H., Rotherham, Miner. Sheffield. Pet Oct. 20. Ord. Oct. 20.
ETHERIDGE, HENRY J., Coven, nr. Wolverhampton, Farmer. Wolverhampton. Pet. Oct. 20. Ord. Oct. 20.
GLAMMON COAL COMPANY, Penarth. Cardiff. Pet. Sept. 20 Ord. Oct. 18.
GREEN, FRED, the Younger, Sheffield, Publican. Sheffield. Pet. Oct. 16. Ord. Oct. 18.
GREENHALGH, SAMUEL, Caerau, nr. Bridgend, General Haulier. Cardiff. Pet. Oct. 18. Ord. Oct. 18.
HALL, R. J., Streatham, Tailor. Wandsworth. Pet. Sept. 20. Ord. Oct. 19.
HALL, HARRY, Castleford, Confectioner. Wakefield. Pet. Oct. 20. Ord. Oct. 20.
HALL, STANLEY A., Hertford, Automobile Engineer. Hertford. Pet. Oct. 21. Ord. Oct. 21.
HEWSON, MARIE L., Goole, Confectioner. Wakefield. Pet Oct. 20. Ord. Oct. 20.
HODGSON, GEORGE, Birmingham, Undertaker. Birmingham. Pet. Oct. 6. Ord. Oct. 20.
HOGG, JAMES E., Southampton, Butcher Southampton. Pet. Oct. 21. Ord. Oct. 21.
HOPKINS, WALWYN, Woking, Seed and Bulb Merchant. Guildford. Pet. Oct. 20. Ord. Oct. 20.
HUGHES, RONALD C., Swansea. Swansea. Pet. Aug. 10. Ord. Oct. 20.
JAMES, JOHN, Ynysybwl, Glam., Farmer. Pontypridd. Pet. Oct. 20. Ord. Oct. 20.
JENKINSON, NORMAN H., Southampton-row. High Court. Pet. Aug. 29. Ord. Oct. 18.
KING, HARRY F., Smethwick, Commercial Traveller. West Bromwich. Pet. Oct. 20. Ord. Oct. 20.
LEE, WALTER, J., Huddersfield, Clothier. Huddersfield. Pet. Oct. 18. Ord. Oct. 18.
MARTIN, A., Earlsfield. Wandsworth. Pet. Sept. 13. Ord. Oct. 19.
MERRY, HERBERT, Birmingham, Estate Agent. Birmingham. Pet. Oct. 2. Ord. Oct. 20.
MURPHY, KATHLEEN, Liverpool, Owner of Flats. Liverpool. Pet. Oct. 3. Ord. Oct. 19.
NOBLE, WILLIAM, Penge, Agent. High Court. Pet. July 19. Ord. Oct. 13.
PHILLIPS, JOSEPH, Surrey-st., Strand. High Court. Pet. Feb. 24. Ord. Oct. 19.
POMEROY, FREDERICK G. W. W., Clifton, Bristol, Ladies' Outfitter. Bristol. Pet. Oct. 20. Ord. Oct. 20.
PROSSER, ARTHUR, Fleur-de-Lis, Mon., Grocer. Tredegar. Pet. Oct. 16. Ord. Oct. 16.
ROBINSON, HENRY, Liverpool, Produce Broker. Liverpool. Pet. Oct. 21. Ord. Oct. 21.
SAXBY, JOSEPH, Horncastle, Smallholder. Lincoln. Pet. Oct. 20. Ord. Oct. 20.
SHEFFIELD HARDWARE MERCHANTS (LONDON), THE, Kennington-rd., Wholesale Builders' Merchants. High Court. Pet. Oct. 6. Ord. Oct. 19.
SMITH, JOHN HENRY, Sheffield, Dairyman. Sheffield. Pet. Oct. 20. Ord. Oct. 20.
STEN, JOSEPH and SLUTSKY, SAMUEL, Cannon Street-rd, Waste Rubber Merchants. High Court. Pet. Sept. 23. Ord. Oct. 19.
STRAND, BJARNE, Bishopsgate, Export and Import Merchant. High Court. Pet. Aug. 23. Ord. Oct. 19.
THOMAS, ISAIAH CYR, Leicester, House Furnisher. Leicester. Pet. Aug. 28. Ord. Oct. 20.
TURNER, HENRY, Redditch, Fish Salesman. Birmingham. Pet. Oct. 21. Ord. Oct. 21.
WALL, EDWARD, Newtown, Montgomery, Licensed Victualler, Newtown. Pet. Oct. 21. Ord. Oct. 21.
WALTON, JOHN W., Seymour-mews, Baker-st., Builder. High Court. Pet. Oct. 19. Ord. Oct. 19.
WHITE, MINNIE M., Stratford, E. (trading as Engineer). High Court. Pet. Sept. 1. Ord. Oct. 19.
WILSON, ARTHUR B., Withernsea, Yorks, General Carrier. Kingston-upon-Hill. Pet. Oct. 20. Ord. Oct. 20.
WOODCOCK, CHARLES W. H., Boston, Lincs, Motor and Cycle Agent. Boston. Pet. Oct. 16. Ord. Oct. 16.
ZUCKERKANDEL, Whitechapel, Provision Merchant. High Court. Pet. Sept. 22. Ord. Oct. 19.

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